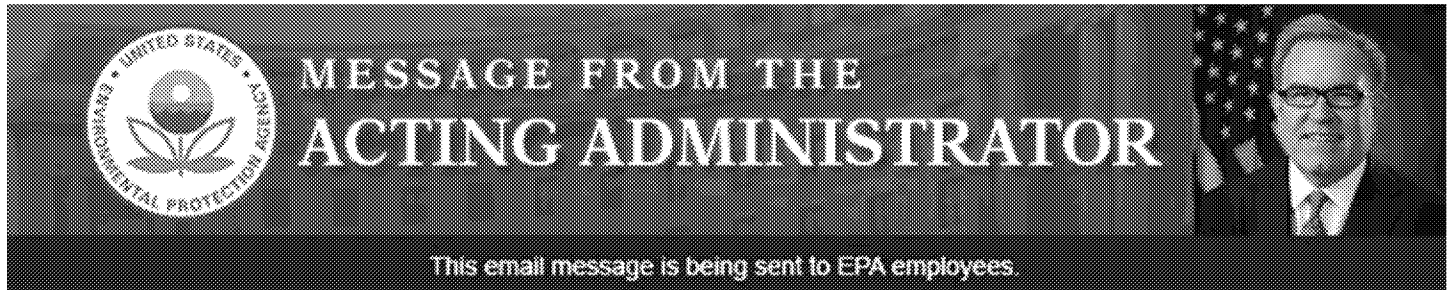


From: Message from the Administrator [messagefromtheadadministrator@epa.gov]
Sent: 11/13/2018 2:12:41 PM
To: Message from the Administrator [messagefromtheadadministrator@epa.gov]
Subject: The Freedom of Information Act (FOIA): An Important Tool for Promoting Transparency and Building Public Trust in Agency Actions



Colleagues,

Throughout the history of the U.S. Environmental Protection Agency (EPA), Administrators have reaffirmed a commitment to transparency in our agency's operations. The Freedom of Information Act (FOIA) is an important tool for promoting transparency and building public trust in agency actions. I reaffirm the Agency's commitment to operating in an open and transparent manner, and I encourage all Agency employees to join me to help improve the Agency's FOIA response efforts. The success of our efforts at the EPA directly depends on the trust of the public we serve.

Key Messages

- **Transparency:** The EPA is committed to operating in an open and transparent manner. People have the right to access agency records, except where the information is protected from disclosure.
- **Timeliness:** The EPA will improve the timeliness of our FOIA responses.
- **Quality:** The EPA will improve the quality of our FOIA responses so that the public receives both clear communication about the FOIA process and appropriately redacted records.
- **Professionalism:** The EPA will bolster our training efforts and ensure that our FOIA professionals have the resources they need to help make the EPA a flagship example of transparent, efficient and effective government.

General Principles

Like all federal agencies, the EPA is subject to FOIA. FOIA encourages accountability through transparency, and pursuant to FOIA, any person has the right to access agency records, except where the information is protected from disclosure. The Agency is committed to conducting its business in an open and transparent manner. The Agency will work to ensure that its FOIA professionals have the support needed to satisfy FOIA's requirements in a timely and efficient a manner. The EPA should also strive, when possible, to proactively provide the public with access to information that is likely to be requested under FOIA to better assist the public to participate and engage with the Agency.

Because the EPA is a public regulatory agency, staff may come into possession of information that may need to be protected from disclosure under FOIA, including confidential business information, trade secrets, deliberative information, or personal privacy information. Although the Agency's business is to be conducted in an open, accountable manner, we must also ensure that sensitive information entitled to special protection

is handled with the utmost care and in full compliance with all applicable laws and regulations. The EPA's FOIA Regulations are available [here](https://www.ecfr.gov) (<https://www.ecfr.gov>).

Important Steps Taken to Date

The Agency has taken several steps recently to improve its FOIA program. The Agency's FY 2018-2022 EPA Strategic Plan sets one of its Strategic Goals as increasing transparency and public participation. Measures for meeting this goal include eliminating the backlog of pending FOIA requests and meeting the requisite deadlines for responding to FOIA requests. As part of this improvement effort, in April of 2018, the Agency created the National FOIA Office within the Office of General Counsel and soon thereafter delegated to the General Counsel the Chief FOIA Officer functions. These functions include FOIA regulations and policy, public liaison and data-reporting, training, and assisting offices Agency-wide that are responsible for FOIA. The General Counsel also oversees legal counseling, FOIA appeals, and FOIA litigation as well as the FOIA Expert Assistance Team (FEAT), which was created in 2014 and has been very successful at efficiently managing the Agency's most complex FOIA issues. Additional FOIA professionals are being hired to increase the services the National FOIA Office provides.

To enhance accountability, the Agency recently announced a reorganization of the Regional Counsel Offices to provide clear authority and reporting lines for FOIA offices in the regions. FOIA accountability language is also being added to FOIA manager performance agreements Agency-wide.

At the same time, the Agency also launched a significant effort to tackle the large volume of FOIA requests within the Administrator's Office. This initiative (known as the AO4 project) included:

1. Centralizing the FOIA process for four sub-offices,
2. Engaging the FEAT from OGC to provide critical project management, legal guidance, and training,
3. Standing up a "Tiger Team" of 12 staff dedicated to FOIA review and processing, and
4. Hiring additional FOIA professionals.

So far, this effort has yielded significant results and continues to make deep inroads into the Administrator's Office's backlog. I want to thank all who helped with these efforts and with prior backlog reduction initiatives in the program and regional offices. All Agency components should continue to tackle their FOIA backlog. I am directing the National FOIA Office to circulate monthly a report of the FOIA request backlog across EPA.

In addition, last fall, the EPA hosted a multi-day conference for over 180 of the Agency's FOIA professionals. The conference was the first of its kind in more than a decade. The training agenda tracked the life cycle of a FOIA and addressed legal issues encountered at all stages of FOIA processing. Last fall's conference represents the first of a two-phased training program. The second phase, described below, involves specialized FOIA training for supervisors.

In February 2018, the Agency also held a multi-day Lean event focused on FOIA. That event resulted in two pilot projects that the National FOIA Office has led in conjunction with the Office of Continuous Improvement (OCI) to identify bottlenecks and help streamline the FOIA response process.

Moving Forward to Improve the FOIA Process

The Agency's leadership intends to continue to take steps to improve its FOIA process this year. In addition, I encourage organizations responsible for FOIA to undertake their own projects to improve FOIA processing. These should include centralization of FOIA review and management functions in the organization, adding tracking identification numbers to all documents released through FOIA, hiring additional staff, and providing supplemental training using existing resources.

To meet the transparency and public participation Strategic Goal, the EPA must work to ensure that it is not only providing responses to FOIA requests in a timely manner, but also that those responses are of the highest quality. Programs and regions should continue implementing current EPA FOIA policy and procedures to help reduce errors in their responses. For instance, all organizations should continue to have at least two knowledgeable individuals, including one manager, review all documents before they are released to the public to improve accuracy and consistency in release determinations. See Freedom of Information Act Policy, CIO 2157.1 (September 20, 2014) (available at [https://intranet.epa.gov/foia/docs/FOIA-Policy-August2014-09-30FINAL\(with-electronic-signature\).pdf](https://intranet.epa.gov/foia/docs/FOIA-Policy-August2014-09-30FINAL(with-electronic-signature).pdf)).

Further, the Agency should continue FOIA training for all staff. To that end, the Office of General Counsel is planning the second phase of the training program mentioned above. This second phase of the training program will include a training directed at supervisors, including Division Directors or the equivalent, responsible under the Agency's FOIA Policy for the review of FOIA responses. These training efforts and continued annual training of our FOIA professionals will help ensure that the Agency is responding effectively and efficiently to FOIA requests and utilizing fully available technological resources. Questions about whether FOIA exemptions apply to certain information or other questions about FOIA processing should be directed to the Office of General Counsel.

Federal Records Act Requirements

For the Agency to have an effective FOIA program, the Agency must also ensure that it has a robust Federal Records program. The Federal Records Act provides the foundation for transparency at the EPA. Under the Federal Records Act, employees must create and maintain records that document the persons, places, things, or matters dealt with by the agency and which facilitate action by agency officials and their successors in office. Proper records management protects the financial, legal, and other rights of the EPA and of persons directly affected by the EPA's actions, and permits adequate oversight of the Agency's work by Congress and the public. All employees must take care to document the formulation and execution of basic policies and decisions, and the taking of necessary actions. It is particularly important that all employees understand that the Federal Records Act requirements apply to oral communications. All substantive decisions and commitments reached orally should be documented. You can learn more about the Federal Records Act at <http://intranet.epa.gov/records/>. Should you have any questions about your Federal Records Act obligations, you should contact the Records Help Desk by calling 202-566-1494 or emailing records@epa.gov.

Conclusion

The Agency is facing an unprecedented volume of FOIA requests. Despite this enormous challenge, the EPA is committed to conducting its business in an open and transparent manner and will continue to take steps to improve the efficacy and efficiency of its FOIA process. I look forward to working with all of you to make the EPA a flagship example of transparent, efficient, and effective government.

Andrew Wheeler
Acting Administrator

Message

From: Minoli, Kevin [Minoli.Kevin@epa.gov]
Sent: 7/13/2018 11:44:47 PM
To: Leopold, Matt (OGC) [Leopold.Matt@epa.gov]; Jackson, Ryan [jackson.ryan@epa.gov]; Packard, Elise [Packard.Elise@epa.gov]
Subject: Draft Letter
Attachments: DRAFT Letter to RM Cummings Re FEAT.docx

I know this took longer that folks wanted, but attached for your review is a draft letter to RM Cummings. While it is not a direct rebuttal to all of the concerns raised in the letter, I do address many of the concerns as I tell the story of the FEAT. For example, whether its an issue for the AO to ask that something become a FEAT FOIA. I also realize this may be off the mark for what folks wanted, but I am hopeful you will find that it actually works.

Kevin

Kevin S. Minoli
Principal Deputy General Counsel
Office of General Counsel
US Environmental Protection Agency
Office Line: 202-564-8064
Direct Dial: 202-564-5551

Message

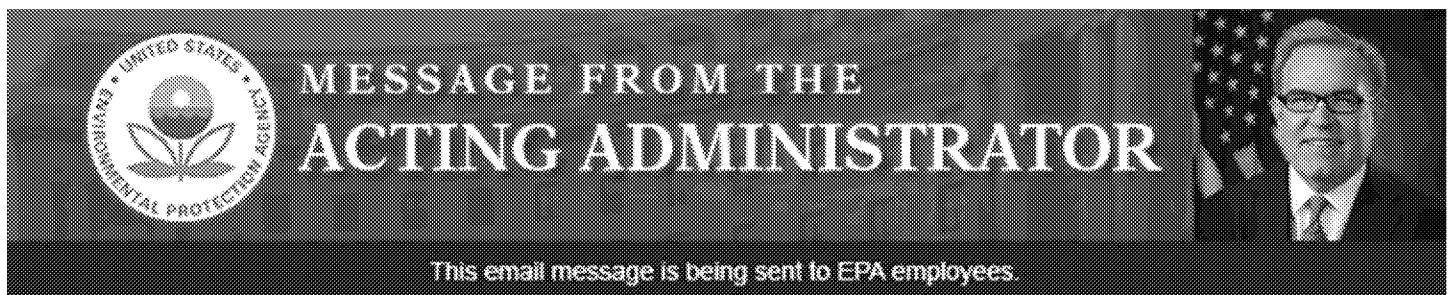
From: Jackson, Ryan [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=38BC8E18791A47D88A279DB2FEC8BD60-JACKSON, RY]
Sent: 11/13/2018 2:30:11 PM
To: Beach, Christopher [beach.christopher@epa.gov]
Subject: FW: The Freedom of Information Act (FOIA): An Important Tool for Promoting Transparency and Building Public Trust in Agency Actions

From: Message from the Administrator

Sent: Tuesday, November 13, 2018 9:13 AM

To: Message from the Administrator <messagefromtheadadministrator@epa.gov>

Subject: The Freedom of Information Act (FOIA): An Important Tool for Promoting Transparency and Building Public Trust in Agency Actions



Colleagues,

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manner. The Agency will work to ensure that its FOIA professionals have the support needed to satisfy FOIA's requirements in a timely and efficient a manner. The EPA should also strive, when possible, to proactively provide the public with access to information that is likely to be requested under FOIA to better assist the public to participate and engage with the Agency.

Because the EPA is a public regulatory agency, staff may come into possession of information that may need to be protected from disclosure under FOIA, including confidential business information, trade secrets, deliberative information, or personal privacy information. Although the Agency's business is to be conducted in an open, accountable manner, we must also ensure that sensitive information entitled to special protection is handled with the utmost care and in full compliance with all applicable laws and regulations. The EPA's FOIA Regulations are available [here](https://www.ecfr.gov) (<https://www.ecfr.gov>).

Important Steps Taken to Date

The Agency has taken several steps recently to improve its FOIA program. The Agency's FY 2018-2022 EPA Strategic Plan sets one of its Strategic Goals as increasing transparency and public participation. Measures for meeting this goal include eliminating the backlog of pending FOIA requests and meeting the requisite deadlines for responding to FOIA requests. As part of this improvement effort, in April of 2018, the Agency created the National FOIA Office within the Office of General Counsel and soon thereafter delegated to the General Counsel the Chief FOIA Officer functions. These functions include FOIA regulations and policy, public liaison and data-reporting, training, and assisting offices Agency-wide that are responsible for FOIA. The General Counsel also oversees legal counseling, FOIA appeals, and FOIA litigation as well as the FOIA Expert Assistance Team (FEAT), which was created in 2014 and has been very successful at efficiently managing the Agency's most complex FOIA issues. Additional FOIA professionals are being hired to increase the services the National FOIA Office provides.

To enhance accountability, the Agency recently announced a reorganization of the Regional Counsel Offices to provide clear authority and reporting lines for FOIA offices in the regions. FOIA accountability language is also being added to FOIA manager performance agreements Agency-wide.

At the same time, the Agency also launched a significant effort to tackle the large volume of FOIA requests within the Administrator's Office. This initiative (known as the AO4 project) included:

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In addition, last fall, the EPA hosted a multi-day conference for over 180 of the Agency's FOIA professionals. The conference was the first of its kind in more than a decade. The training agenda tracked the life cycle of a FOIA and addressed legal issues encountered at all stages of FOIA processing. Last fall's conference represents the first of a two-phased training program. The second phase, described below, involves specialized FOIA training for supervisors.

In February 2018, the Agency also held a multi-day Lean event focused on FOIA. That event resulted in two pilot projects that the National FOIA Office has led in conjunction with the Office of Continuous Improvement (OCI) to identify bottlenecks and help streamline the FOIA response process.

Moving Forward to Improve the FOIA Process

The Agency's leadership intends to continue to take steps to improve its FOIA process this year. In addition, I encourage organizations responsible for FOIA to undertake their own projects to improve FOIA processing. These should include centralization of FOIA review and management functions in the organization, adding tracking identification numbers to all documents released through FOIA, hiring additional staff, and providing supplemental training using existing resources.

To meet the transparency and public participation Strategic Goal, the EPA must work to ensure that it is not only providing responses to FOIA requests in a timely manner, but also that those responses are of the highest quality. Programs and regions should continue implementing current EPA FOIA policy and procedures to help reduce errors in their responses. For instance, all organizations should continue to have at least two knowledgeable individuals, including one manager, review all documents before they are released to the public to improve accuracy and consistency in release determinations. See Freedom of Information Act Policy, [CIO 2157.1](#) (September 20, 2014) (available at [https://intranet.epa.gov/foia/docs/FOIA-Policy-August2014-09-30FINAL\(with-electronic-signature\).pdf](https://intranet.epa.gov/foia/docs/FOIA-Policy-August2014-09-30FINAL(with-electronic-signature).pdf)).

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Conclusion

The Agency is facing an unprecedented volume of FOIA requests. Despite this enormous challenge, the EPA is committed to conducting its business in an open and transparent manner and will continue to take

steps to improve the efficacy and efficiency of its FOIA process. I look forward to working with all of you to make the EPA a flagship example of transparent, efficient, and effective government.

Andrew Wheeler
Acting Administrator

Message

From: Jackson, Ryan [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=38BC8E18791A47D88A279DB2FEC8BD60-JACKSON, RY]
Sent: 7/17/2018 3:54:26 PM
To: ewolff@politico.com
Subject: Letter to Ranking Member Elijah E. Cummings Regarding EPA's FOIA Expert Assistance Team.Final.pdf
Attachments: Letter to Ranking Member Elijah E. Cummings Regarding EPA's FOIA Expert Assistance Team.Final.pdf

Importance: High



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Washington, D.C. 20460

OFFICE OF
GENERAL COUNSEL

July 15, 2018

The Honorable Elijah E. Cummings
Ranking Member
Committee on Oversight and Government Reform
U.S. House of Representatives
Washington, D.C. 20515

Dear Ranking Member Cummings:

In a letter from you in your capacity as the Ranking Member of the Committee on Oversight and Government Reform (Committee) to the Honorable Trey Gowdy, Chairman of the Committee, you raised questions regarding the Environmental Protection Agency's (EPA's) process for responding to Freedom of Information Act (FOIA) requests. The letter highlighted the role of EPA's FOIA Expert Assistance Team (FEAT) in that process. I write to provide information as to the origin and role of the FEAT, and to offer to brief Committee staff on the same.

In 2013, EPA's FOIA program was routinely the subject of litigation, public criticism, and Congressional oversight (including oversight by this Committee). Then-Acting Administrator of EPA Robert Perciasepe turned to me and my counterpart in the Office of Environmental Information and gave us the following task: make the FOIA process at EPA better. In response, the FOIA Expert Assistance Team, affectionately known as the FEAT, was created. The purpose of the FEAT was to provide strategic direction and project management assistance on the most challenging or complex FOIA requests. Here is how the FEAT was described in its original Functional Statement:

Under the supervision of the Senior Counsel, this unit provides legal counsel on all issues pertaining to selected FOIA requests that have been determined to be [the] most complex and/or potentially sensitive requests received across the Agency. Utilizing an extraordinary breadth of FOIA knowledge and experience, together with in-depth organizational and external awareness, the team provides advice and guidance to the highest echelons of management within the Agency.

Throughout its history, there have been three ways a FOIA request became a “FEAT FOIA”: a request from the lead office, a request from the Office of the Administrator, and an independent decision by the FEAT Director. The FEAT would engage on approximately 3% of EPA’s FOIA requests each year, with the level of engagement on each request adjusting to the specific needs presented by that request. Among the first FEAT “deployments” – where DC-based experts travel to locations across the agency to help lead a response to a FOIA request – was the Team’s engagement with EPA’s Region 10 in response to requests related to Bristol Bay, Alaska. Other major “FEAT FOIAs” include requests related to the spill of polluted water from Gold King Mine, EPA’s response to Volkswagen’s use of defeat devices, and drinking water contamination in Flint, Michigan.

In addition to work on specific FOIA requests, the FEAT also helped keep senior leaders informed of new requests that the agency received each week, coordinated inter-agency review with the Executive Office of the President (EOP) where the EOP had equities in the responsive documents, and made senior leaders aware of impending FOIA productions. There are multiple benefits to making senior leaders – political and career – aware of productions before they are actually produced: the Office of Congressional and Intergovernmental Affairs can determine if the documents are also responsive to a Congressional request for information and, if so, ensure Congress receives the documents at the same time or slightly before the requestor; the Office of Public Affairs can prepare any communications materials deemed necessary based on the documents to be produced; when the documents are from or about a particular employee, keeping that employee informed throughout the process when appropriate, including at the response stage, can significantly increase their confidence in and respect for the FOIA Program into the future; and, while not meant as a quality control tool, to the extent a mistake is identified, it can be corrected. This “awareness review” process does not itself violate FOIA and can be completed without causing undue delay.

In early 2017, the FEAT began to take on a new responsibility: providing programmatic training and support to an office that was struggling to meet its FOIA responsibilities. FEAT members were “embedded” with OGC’s External Civil Rights Compliance Office and OGC’s Ethics Office to help those offices gain experience and confidence in their FOIA abilities. Based in part on that experience, EPA Chief of Staff Ryan Jackson asked the FEAT to assist the Administrator’s Office (AO) in improving its FOIA program. The AO had seen a 415% increase in the number of incoming FOIA requests compared to 2016 and the volume had overwhelmed the small staff that was designated to respond to such requests. The AO Centralization Pilot Project was designed to see if the FEAT could “deploy” to an office within EPA, assess the strengths and weaknesses of the office’s current FOIA program, and build a consolidated cadre of employees who would be focused exclusively on FOIA and other information requests. The expectation was that by centralizing and prioritizing the responsibility for FOIA requests, the office would produce more timely responses with fewer errors that necessitated less resources.

After multiple lean events and prototype exercises, the FEAT and representatives from the AO Immediate Office (OEX), the Office of Public Affairs (OPA), the Office of Policy (OP) and the Office of Congressional and Intergovernmental Relations (OCIR) (collectively referred to as AO4) began to implement the AO FOIA Centralization Pilot Project on April 31, 2018. With the support of the Chief of Staff, the FEAT hired three new employees to support this effort, and AO4 offices recruited new information experts as well. Currently, the FEAT is coordinating the centralized FOIA efforts for the 1,453 FOIA requests pending with the AO4 offices (as of June 18, 2018).

Through the Pilot Project, the FEAT and the AO4 Offices have built a foundation for a dramatically improved FOIA program. The team painstakingly categorized 1,442 requests and assigned a project lead for each. There was no existing categorization scheme for the team to turn to, so as they reviewed the requests they developed a unique taxonomy for classifying all existing and incoming requests. They also began the practice of stamping each document processed as part of the pilot with a unique identifier so that every document can be tracked at all stages of the response process.

These behind the scenes efforts enabled two key advancements that generated tangible results for requestors. First, on June 6, 2018, every one of the 1,163 requestors with a request pending in the AO4 received an update on their specific request that included a tracking number, where the request currently stood in the queue of pending requests, and an estimated response date. Many of those dates were months into the future, and so the letters offered the assistance of EPA's FOIA Public Liaison and the Office of Government Information Services, and committed to providing interim releases, if possible. That commitment is meaningful, because the second advancement is that release to one requestor now means release to all. The agency often receives multiple requests for the same information. Because the team has now identified every pending request as relating to one or more standardized subject areas, and because when the team reviews a document it also identifies that document as relating to one or more of the same standardized subject areas, the team can instantly identify all pending requests to which a document is responsive and send the production to each of those requestors as well. That innovation alone has incredible potential to reduce the time it takes the AO to respond to requests. While much more progress must be made, since implementation, the team has completed its response to 100 requests and provided interim responses to 341 additional requests.

EPA's FOIA program is far from perfect. The number of requests that are pending for more than the statutory or agreed upon time for responding has increased. As a result, EPA now faces over 70 lawsuits under FOIA – a 500% increase over the pre-2017 high. Ultimately, the head of an agency sets the tone and the commitment of EPA's senior leaders will be essential for the program to improve. The work of the FEAT and the AO4 Team, however, has laid a foundation from which EPA's FOIA program could be a model of what a FOIA program should be, not an example of what a FOIA program should not be. I invite you, other members of the Committee, and Committee staff to visit our offices to see first-

hand the effort that is being made and the work that has been done to put the agency on the cusp of that future. If you have further questions or would like to schedule a briefing, you may contact me at minoli.kevin@epa.gov or (202) 564-8064, or your staff may contact Neil Bigioni, Acting Director, National FOIA Office, at bigioni.neil@epa.gov or (202) 564-2281, or Kristien Knapp, Office of Congressional and Intergovernmental Relations at knapp.kristien@epa.gov or (202) 564-3277.

Sincerely,

A handwritten signature in dark ink, appearing to read "K. S. Minoli", written in a cursive style.

Kevin S. Minoli
Principal Deputy General Counsel &
Designated Agency Ethics Official

cc: The Honorable Trey Gowdy
Chairman, Committee on Oversight and Government Reform

Message

From: Jackson, Ryan [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=38BC8E18791A47D88A279DB2FEC8BD60-JACKSON, RY]
Sent: 7/15/2018 11:43:26 PM
To: stephen.castor@mail.house.gov
Subject: Letter to Ranking Member Elijah E. Cummings Regarding EPA's FOIA Expert Assistance Team.Final.pdf
Attachments: Letter to Ranking Member Elijah E. Cummings Regarding EPA's FOIA Expert Assistance Team.Final.pdf; ATT00001.txt

Message

From: Jackson, Ryan [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=38BC8E18791A47D88A279DB2FEC8BD60-JACKSON, RY]
Sent: 7/15/2018 11:28:06 PM
To: Wheeler, Andrew [wheeler.andrew@epa.gov]
Subject: Letter to Ranking Member Elijah E. Cummings Regarding EPA's FOIA Expert Assistance Team.Final.pdf
Attachments: Letter to Ranking Member Elijah E. Cummings Regarding EPA's FOIA Expert Assistance Team.Final.pdf; ATT00001.txt

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From: Jackson, Ryan [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=38BC8E18791A47D88A279DB2FEC8BD60-JACKSON, RY]
Sent: 7/15/2018 11:25:54 PM
To: White, Elizabeth [white.elizabeth@epa.gov]
Subject: Letter to Ranking Member Elijah E. Cummings Regarding EPA's FOIA Expert Assistance Team.Final.pdf
Attachments: Letter to Ranking Member Elijah E. Cummings Regarding EPA's FOIA Expert Assistance Team.Final.pdf; ATT00001.txt

This one is the latest.

Message

From: Jackson, Ryan [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=38BC8E18791A47D88A279DB2FEC8BD60-JACKSON, RY]
Sent: 7/15/2018 11:19:53 PM
To: Chris_Tomassi@appro.senate.gov
Subject: Letter to Ranking Member Elijah E. Cummings Regarding EPA's FOIA Expert Assistance Team.Final.pdf
Attachments: Letter to Ranking Member Elijah E. Cummings Regarding EPA's FOIA Expert Assistance Team.Final.pdf; ATT00001.txt

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From: Jackson, Ryan [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=38BC8E18791A47D88A279DB2FEC8BD60-JACKSON, RY]
Sent: 7/15/2018 11:19:44 PM
To: Dave.LesStrang@mail.house.gov
Subject: Letter to Ranking Member Elijah E. Cummings Regarding EPA's FOIA Expert Assistance Team.Final.pdf
Attachments: Letter to Ranking Member Elijah E. Cummings Regarding EPA's FOIA Expert Assistance Team.Final.pdf; ATT00001.txt

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From: Jackson, Ryan [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=38BC8E18791A47D88A279DB2FEC8BD60-JACKSON, RY]
Sent: 7/15/2018 11:19:23 PM
To: mary.martin@mail.house.gov
Subject: Letter to Ranking Member Elijah E. Cummings Regarding EPA's FOIA Expert Assistance Team.Final.pdf
Attachments: Letter to Ranking Member Elijah E. Cummings Regarding EPA's FOIA Expert Assistance Team.Final.pdf; ATT00001.txt

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Sent: 7/15/2018 11:18:55 PM
To: Konkus, John [konkus.john@epa.gov]; Abboud, Michael [abboud.michael@epa.gov]; Hewitt, James [hewitt.james@epa.gov]; Block, Molly [block.molly@epa.gov]; Lyons, Troy [lyons.troy@epa.gov]; Ringel, Aaron [ringel.aaron@epa.gov]; Palich, Christian [palich.christian@epa.gov]
Subject: Letter to Ranking Member Elijah E. Cummings Regarding EPA's FOIA Expert Assistance Team.Final.pdf
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Will you distribute to all those outlets requesting information on our FOIA process: AP, CNN, The Hill, etc etc AND provide to House Oversight minority and minority and House and Senate Appropriations, House and Senate Judiciary, E&C, EPW all minority and majority. Please do as soon as possible.

Message

From: Jackson, Ryan [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=38BC8E18791A47D88A279DB2FEC8BD60-JACKSON, RY]
Sent: 7/15/2018 9:18:23 PM
To: White, Elizabeth [white.elizabeth@epa.gov]
Subject: FINAL DRAFT Letter to RM Cummings Re FEAT.docx
Attachments: FINAL DRAFT Letter to RM Cummings Re FEAT.docx; ATT00001.txt

Can you review the attached? I'm sorry for the quick turn around but we are trying to send tonight. Kevin Minoli is signing it. I think it's good but just wanted to check on any concerns from you. Thanks.

Message

From: DC-WJCN-3402-M@epa.gov [DC-WJCN-3402-M@epa.gov]
Sent: 11/16/2018 10:45:28 AM
To: Jackson, Ryan [jackson.ryan@epa.gov]
Subject: FOIA Awareness Policy
Attachments: image2018-11-16-054527.pdf

Message

From: Routt, Christiane [Routt.Christiane@epa.gov]
Sent: 2/19/2019 12:10:12 PM
To: Gottesman, Larry [Gottesman.Larry@epa.gov]; Schumacher, Wendy [schumacher.wendy@epa.gov]
Subject: RE: Interim FOIA Policy and Procedures Update

Thank you, Larry – for sending this so quickly to us.

ORD will be sharing with our FOIA personnel, as well as sharing with all senior leadership/mid-management through a formal transmittal release. We will also be reviewing all the critical points and ensuring our new policies and procedures are appropriately updated to reflect any changes and key points.

Again, thanks so much – good timing as we get ready to potentially launch our A3 (if approved) for FOIA.

Christiane E. Routt
ORD National FOIA Officer/Coordinator
Senior Advisor, OPARM, ORD
571-291-5774

From: Gottesman, Larry
Sent: Friday, February 15, 2019 3:54 PM
To: Calderon, Wanda <Calderon.Wanda@epa.gov>; Engels, Alan <engels.alan@epa.gov>; Hines, Andrea <hines.andrea@epa.gov>; Ho, Nancy <Ho.Nancy@epa.gov>; Johnson, Ivry <Johnson.Ivry@epa.gov>; Kercheval, Stephanie <Kercheval.Stephanie@epa.gov>; Schena, Cristeen <Schena.Cristeen@epa.gov>; Stevens, Edie <Stevens.Edie@epa.gov>; Tate, Rita <Tate.Rita@epa.gov>; Wheatley, Jessica <wheatley.jessica@epa.gov>; Newton, Jonathan <Newton.Jonathan@epa.gov>; Hamilton, Sabrina <Hamilton.Sabrina@epa.gov>; Sandfoss, Kristina <Sandfoss.Kristina@epa.gov>; Kennedy, Chandra <Kennedy.Chandra@epa.gov>; Malloy, Marilyn <Malloy.Marilyn@epa.gov>; Newman, Maya <Newman.Maya@epa.gov>; Williams, LaShawn <williams.lashawn@epa.gov>; Levine, Scott <Levine.Scott@epa.gov>; Barnett-Owens, Inga <Barnett-Owens.Inga@epa.gov>; Routt, Christiane <Routt.Christiane@epa.gov>; McLendon, Wanda <McLendon.Wanda@epa.gov>; Brown, Sineta <Brown.Sineta@epa.gov>
Cc: Schumacher, Wendy <schumacher.wendy@epa.gov>; Lewis, Judith <Lewis.Judith@epa.gov>; Lewis, Monica <lewis.monica@epa.gov>; Person, Linda <Person.Linda@epa.gov>
Subject: FW: Interim FOIA Policy and Procedures Update

I wanted to share with you this important information concerning EPA's Interim FOIA Policy and Procedures update. Please share this information with your FOIA professionals.

Please let me know if you have any questions.

Have a great weekend.

Larry F. Gottesman
Agency FOIA Officer
Office of General Counsel
U.S. Environmental Protection Agency

202-566-2162 (Direct line)
202-689-4588 (Mobile)
202-566-1667 (Main line)

From: Leopold, Matt (OGC)

Sent: Friday, February 15, 2019 12:56 PM

To: Konkus, John <konkus.john@epa.gov>; Grantham, Nancy <Grantham.Nancy@epa.gov>; Bennett, Tate <Bennett.Tate@epa.gov>; Lyons, Troy <lyons.troy@epa.gov>; Palich, Christian <palich.christian@epa.gov>; Richardson, RobinH <Richardson.RobinH@epa.gov>; Ringel, Aaron <ringel.aaron@epa.gov>; Stanich, Ted <Stanich.Ted@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>; Kime, Robin <Kime.Robin@epa.gov>; White, Elizabeth <white.elizabeth@epa.gov>; Hope, Brian <Hope.Brian@epa.gov>; Vizian, Donna <Vizian.Donna@epa.gov>; Lapierre, Kenneth <lapierre.kenneth@epa.gov>; Wehrum, Bill <Wehrum.Bill@epa.gov>; Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Shaw, Betsy <Shaw.Betsy@epa.gov>; Woods, Clint <woods.Clint@epa.gov>; Beck, Nancy <Beck.Nancy@epa.gov>; Baptist, Erik <baptist.erik@epa.gov>; Bertrand, Charlotte <Bertrand.Charlotte@epa.gov>; Bodine, Susan <bodine.susan@epa.gov>; Traylor, Patrick <traylor.patrick@epa.gov>; Starfield, Lawrence <Starfield.Lawrence@epa.gov>; McIntosh, Chad <mcintosh.chad@epa.gov>; Nishida, Jane <Nishida.Jane@epa.gov>; Orme-Zavaleta, Jennifer <Orme-Zavaleta.Jennifer@epa.gov>; Dunlap, David <dunlap.david@epa.gov>; Cook, Steven <cook.steven@epa.gov>; Breen, Barry <Breen.Barry@epa.gov>; Ross, David P <ross.davidp@epa.gov>; Wildeman, Anna <wildeman.anna@epa.gov>; Forsgren, Lee <Forsgren.Lee@epa.gov>; Best-Wong, Benita <Best-Wong.Benita@epa.gov>; Sheehan, Charles <Sheehan.Charles@epa.gov>; Shields, Edward <Shields.Ed@epa.gov>; Dunn, Alexandra <dunn.alexandra@epa.gov>; Szaro, Deb <Szaro.Deb@epa.gov>; Dierker, Carl <Dierker.Carl@epa.gov>; Williamson, Timothy <Williamson.Tim@epa.gov>; Lopez, Peter <lopez.peter@epa.gov>; Mugdan, Walter <Mugdan.Walter@epa.gov>; Schaaf, Eric <Schaaf.Eric@epa.gov>; Simon, Paul <Simon.Paul@epa.gov>; Servidio, Cosmo <servidio.cosmo@epa.gov>; Rodrigues, Cecil <rodrigues.cecil@epa.gov>; Coe, Mary <Coe.Mary@epa.gov>; Bigioni, Neil <bigioni.neil@epa.gov>; Walker, Mary <walker.mary@epa.gov>; Palmer, Leif <Palmer.Leif@epa.gov>; Rubini, Suzanne <Rubini.Suzanne@epa.gov>; Stepp, Cathy <stepp.cathy@epa.gov>; Payne, James <payne.james@epa.gov>; Nelson, Leverett <nelson.leverett@epa.gov>; Frey, Bert <frey.bertram@epa.gov>; Idsal, Anne <idsal.anne@epa.gov>; Gray, David <gray.david@epa.gov>; Harrison, Ben <Harrison.Ben@epa.gov>; Gulliford, Jim <gulliford.jim@epa.gov>; Chu, Ed <Chu.Ed@epa.gov>; Humphrey, Leslie <Humphrey.Leslie@epa.gov>; Skelley, Dana <Skelley.Dana@epa.gov>; Benevento, Douglas <benevento.douglas@epa.gov>; Thomas, Deb <thomas.debrah@epa.gov>; Schefski, Kenneth <Schefski.Kenneth@epa.gov>; Joffe, Brian <Joffe.Brian@epa.gov>; Sutin, Elyana <Sutin.Elyana@epa.gov>; Stoker, Michael B. <stoker.michael@epa.gov>; Jordan, Deborah <Jordan.Deborah@epa.gov>; Quast, Sylvia <Quast.Sylvia@epa.gov>; Busterud, Gretchen <Busterud.Gretchen@epa.gov>; Hladick, Christopher <hladick.christopher@epa.gov>; Pirzadeh, Michelle <Pirzadeh.Michelle@epa.gov>; Stern, Allyn <Stern.Alyn@epa.gov>; Castanon, Lisa <Castanon.Lisa@epa.gov>; OGC NFO <OGC-NFO@epa.gov>

Subject: Interim FOIA Policy and Procedures Update

Colleagues,

Over the last year, the Agency has taken significant steps to improve our implementation of the Freedom of Information Act (FOIA). Improvements include a Strategic Goal on transparency as well as reorganizations that created a new National FOIA Office in the Office of General Counsel, delegated the Chief FOIA Officer functions to the General Counsel, and launched a reorganization of the regional FOIA programs into the Regional Counsels Offices. Today, I am issuing an interim FOIA Policy and Procedures Update to reflect the current organizational structure and to make clear that the Agency should continue to follow the Agency's FOIA Policy and Procedure as well as OGC's guidance on the FOIA Improvement Act of 2016. Over the coming months, the Agency plans to issue an update to EPA's FOIA regulations to be consistent with the FOIA Improvement Act of 2016, and I have directed the National FOIA Office thereafter to review and provide additional updates to these FOIA Policy and Procedures consistent with any regulatory changes.

If you have questions regarding the attached documents, or if you have suggestions for improving the Agency's implementation of the FOIA, please call Timothy Epp, Acting Director of the National FOIA Office at 202-564-2830.

Best Regards, Matt

Matthew Z. Leopold

General Counsel

U.S. Environmental Protection Agency

(202) 564-8040

Message

From: Gottesman, Larry [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=7B3DBF872F954FBEB950E98C56BDC431-LGOTTESM]
Sent: 2/22/2019 10:28:53 PM
To: Lewis, Monica [lewis.monica@epa.gov]
Subject: FW: Interim FOIA Policy and Procedures Update
Attachments: FOIAPolicyand ProceduresMemo.pdf; OGC Guidance_FOIA Improvement Act of 2016.pdf; EPA FOIA Policy 09-30-2014.pdf; EPA FOIA Procedures 09-30-2014.pdf

From: Epp, Timothy

Sent: Friday, February 15, 2019 1:46 PM

To: Leopold, Matt (OGC) <Leopold.Matt@epa.gov>; Konkus, John <konkus.john@epa.gov>; Grantham, Nancy <Grantham.Nancy@epa.gov>; Bennett, Tate <Bennett.Tate@epa.gov>; Lyons, Troy <lyons.troy@epa.gov>; Palich, Christian <palich.christian@epa.gov>; Richardson, RobinH <Richardson.RobinH@epa.gov>; Ringel, Aaron <ringel.aaron@epa.gov>; Stanich, Ted <Stanich.Ted@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>; Kime, Robin <Kime.Robin@epa.gov>; White, Elizabeth <white.elizabeth@epa.gov>; Hope, Brian <Hope.Brian@epa.gov>; Vizian, Donna <Vizian.Donna@epa.gov>; Lapierre, Kenneth <lapierre.kenneth@epa.gov>; Wehrum, Bill <Wehrum.Bill@epa.gov>; Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Shaw, Betsy <Shaw.Betsy@epa.gov>; Woods, Clint <woods.Clint@epa.gov>; Beck, Nancy <Beck.Nancy@epa.gov>; Baptist, Erik <baptist.erik@epa.gov>; Bertrand, Charlotte <Bertrand.Charlotte@epa.gov>; Bodine, Susan <bodine.susan@epa.gov>; Traylor, Patrick <traylor.patrick@epa.gov>; Starfield, Lawrence <Starfield.Lawrence@epa.gov>; McIntosh, Chad <mcintosh.chad@epa.gov>; Nishida, Jane <Nishida.Jane@epa.gov>; Orme-Zavaleta, Jennifer <Orme-Zavaleta.Jennifer@epa.gov>; Dunlap, David <dunlap.david@epa.gov>; Cook, Steven <cook.steven@epa.gov>; Breen, Barry <Breen.Barry@epa.gov>; Ross, David P <ross.davidp@epa.gov>; Wildeman, Anna <wildeman.anna@epa.gov>; Forsgren, Lee <Forsgren.Lee@epa.gov>; Best-Wong, Benita <Best-Wong.Benita@epa.gov>; Sheehan, Charles <Sheehan.Charles@epa.gov>; Shields, Edward <Shields.Ed@epa.gov>; Dunn, Alexandra <dunn.alexandra@epa.gov>; Szaro, Deb <Szaro.Deb@epa.gov>; Dierker, Carl <Dierker.Carl@epa.gov>; Williamson, Timothy <Williamson.Tim@epa.gov>; Lopez, Peter <lopez.peter@epa.gov>; Mugdan, Walter <Mugdan.Walter@epa.gov>; Schaaf, Eric <Schaaf.Eric@epa.gov>; Simon, Paul <Simon.Paul@epa.gov>; Servidio, Cosmo <servidio.cosmo@epa.gov>; Rodrigues, Cecil <rodrigues.cecil@epa.gov>; Coe, Mary <Coe.Mary@epa.gov>; Bigioni, Neil <bigioni.neil@epa.gov>; Walker, Mary <walker.mary@epa.gov>; Palmer, Leif <Palmer.Leif@epa.gov>; Rubini, Suzanne <Rubini.Suzanne@epa.gov>; Stepp, Cathy <stepp.cathy@epa.gov>; Payne, James <payne.james@epa.gov>; Nelson, Leverett <nelson.leverett@epa.gov>; Frey, Bert <frey.bertram@epa.gov>; Idsal, Anne <idsal.anne@epa.gov>; Gray, David <gray.david@epa.gov>; Harrison, Ben <Harrison.Ben@epa.gov>; Gulliford, Jim <gulliford.jim@epa.gov>; Chu, Ed <Chu.Ed@epa.gov>; Humphrey, Leslie <Humphrey.Leslie@epa.gov>; Skelley, Dana <Skelley.Dana@epa.gov>; Benevento, Douglas <benevento.douglas@epa.gov>; Thomas, Deb <thomas.debrah@epa.gov>; Schefski, Kenneth <Schefski.Kenneth@epa.gov>; Joffe, Brian <Joffe.Brian@epa.gov>; Sutin, Elyana <Sutin.Elyana@epa.gov>; Stoker, Michael B. <stoker.michael@epa.gov>; Jordan, Deborah <Jordan.Deborah@epa.gov>; Quast, Sylvia <Quast.Sylvia@epa.gov>; Busterud, Gretchen <Busterud.Gretchen@epa.gov>; Hladick, Christopher <hladick.christopher@epa.gov>; Pirzadeh, Michelle <Pirzadeh.Michelle@epa.gov>; Stern, Allyn <Stern.Allyn@epa.gov>; Castanon, Lisa <Castanon.Lisa@epa.gov>; OGC NFO <OGC-NFO@epa.gov>

Subject: RE: Interim FOIA Policy and Procedures Update

For your records, see attached FOIA Policy and Procedure update with three attachments.

Tim

Timothy R. Epp
Acting Director, National FOIA Office
Office of General Counsel

From: Leopold, Matt (OGC)

Sent: Friday, February 15, 2019 12:56 PM

To: Konkus, John <konkus.john@epa.gov>; Grantham, Nancy <Grantham.Nancy@epa.gov>; Bennett, Tate <Bennett.Tate@epa.gov>; Lyons, Troy <lyons.troy@epa.gov>; Palich, Christian <palich.christian@epa.gov>; Richardson, RobinH <Richardson.RobinH@epa.gov>; Ringel, Aaron <ringel.aaron@epa.gov>; Stanich, Ted <Stanich.Ted@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>; Kime, Robin <Kime.Robin@epa.gov>; White, Elizabeth <white.elizabeth@epa.gov>; Hope, Brian <Hope.Brian@epa.gov>; Vizian, Donna <Vizian.Donna@epa.gov>; Lapierre, Kenneth <lapierre.kenneth@epa.gov>; Wehrum, Bill <Wehrum.Bill@epa.gov>; Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Shaw, Betsy <Shaw.Betsy@epa.gov>; Woods, Clint <woods.Clint@epa.gov>; Beck, Nancy <Beck.Nancy@epa.gov>; Baptist, Erik <baptist.erik@epa.gov>; Bertrand, Charlotte <Bertrand.Charlotte@epa.gov>; Bodine, Susan <bodine.susan@epa.gov>; Traylor, Patrick <traylor.patrick@epa.gov>; Starfield, Lawrence <Starfield.Lawrence@epa.gov>; McIntosh, Chad <mcintosh.chad@epa.gov>; Nishida, Jane <Nishida.Jane@epa.gov>; Orme-Zavaleta, Jennifer <Orme-Zavaleta.Jennifer@epa.gov>; Dunlap, David <dunlap.david@epa.gov>; Cook, Steven <cook.steven@epa.gov>; Breen, Barry <Breen.Barry@epa.gov>; Ross, David P <ross.davidp@epa.gov>; Wildeman, Anna <wildeman.anna@epa.gov>; Forsgren, Lee <Forsgren.Lee@epa.gov>; Best-Wong, Benita <Best-Wong.Benita@epa.gov>; Sheehan, Charles <Sheehan.Charles@epa.gov>; Shields, Edward <Shields.Ed@epa.gov>; Dunn, Alexandra <dunn.alexandra@epa.gov>; Szaro, Deb <Szaro.Deb@epa.gov>; Dierker, Carl <Dierker.Carl@epa.gov>; Williamson, Timothy <Williamson.Tim@epa.gov>; Lopez, Peter <lopez.peter@epa.gov>; Mugdan, Walter <Mugdan.Walter@epa.gov>; Schaaf, Eric <Schaaf.Eric@epa.gov>; Simon, Paul <Simon.Paul@epa.gov>; Servidio, Cosmo <servidio.cosmo@epa.gov>; Rodrigues, Cecil <rodrigues.cecil@epa.gov>; Coe, Mary <Coe.Mary@epa.gov>; Bigioni, Neil <bigioni.neil@epa.gov>; Walker, Mary <walker.mary@epa.gov>; Palmer, Leif <Palmer.Leif@epa.gov>; Rubini, Suzanne <Rubini.Suzanne@epa.gov>; Stepp, Cathy <stepp.cathy@epa.gov>; Payne, James <payne.james@epa.gov>; Nelson, Leverett <nelson.leverett@epa.gov>; Frey, Bert <frey.bertram@epa.gov>; Idsal, Anne <idsal.anne@epa.gov>; Gray, David <gray.david@epa.gov>; Harrison, Ben <Harrison.Ben@epa.gov>; Gulliford, Jim <gulliford.jim@epa.gov>; Chu, Ed <Chu.Ed@epa.gov>; Humphrey, Leslie <Humphrey.Leslie@epa.gov>; Skelley, Dana <Skelley.Dana@epa.gov>; Benevento, Douglas <benevento.douglas@epa.gov>; Thomas, Deb <thomas.debrah@epa.gov>; Schefski, Kenneth <Schefski.Kenneth@epa.gov>; Joffe, Brian <Joffe.Brian@epa.gov>; Sutin, Elyana <Sutin.Elyana@epa.gov>; Stoker, Michael B. <stoker.michael@epa.gov>; Jordan, Deborah <Jordan.Deborah@epa.gov>; Quast, Sylvia <Quast.Sylvia@epa.gov>; Busterud, Gretchen <Busterud.Gretchen@epa.gov>; Hladick, Christopher <hladick.christopher@epa.gov>; Pirzadeh, Michelle <Pirzadeh.Michelle@epa.gov>; Stern, Allyn <Stern.Alyn@epa.gov>; Castanon, Lisa <Castanon.Lisa@epa.gov>; OGC NFO <OGC-NFO@epa.gov>

Subject: Interim FOIA Policy and Procedures Update

Colleagues,

Over the last year, the Agency has taken significant steps to improve our implementation of the Freedom of Information Act (FOIA). Improvements include a Strategic Goal on transparency as well as reorganizations that created a new National FOIA Office in the Office of General Counsel, delegated the Chief FOIA Officer functions to the General Counsel, and launched a reorganization of the regional FOIA programs into the Regional Counsels Offices. Today, I am issuing an interim FOIA Policy and Procedures Update to reflect the current organizational structure and to make clear that the Agency should continue to follow the Agency's FOIA Policy and Procedure as well as OGC's guidance on the FOIA Improvement Act of 2016. Over the coming months, the Agency plans to issue an update to EPA's FOIA regulations to be consistent with the FOIA Improvement Act of 2016, and I have directed the National FOIA Office thereafter to review and provide additional updates to these FOIA Policy and Procedures consistent with any regulatory changes.

If you have questions regarding the attached documents, or if you have suggestions for improving the Agency's implementation of the FOIA, please call Timothy Epp, Acting Director of the National FOIA Office at 202-564-2830.

Best Regards, Matt

Matthew Z. Leopold

General Counsel

U.S. Environmental Protection Agency

(202) 564-8040



INFORMATION DIRECTIVE POLICY

Freedom of Information Act Policy			
EPA Classification No.:	CIO 2157.1	CIO Approval Date:	09/30/2014
CIO Transmittal No.:	14-006	Review Date:	09/30/2017

*Issued by the EPA Chief Information Officer,
Pursuant to Delegation 1-19, dated July 7, 2005*

Freedom of Information Act Policy

1. PURPOSE

This policy establishes EPA requirements for complying with the Freedom of Information Act (FOIA) as amended, EPA FOIA regulations, and guidance issued by the U. S. Department of Justice and the National Archives and Records Administration. This policy supports open government through transparency, proactive disclosure, and, when possible, discretionary releases of information. It also serves as a framework for the associated procedures used to process FOIA requests and promote accountability for the timeliness and quality of EPA responses.

2. SCOPE AND APPLICABILITY

This policy addresses statutory, regulatory, federal guidance and Agency requirements for processing FOIA requests. The policy establishes management and staffing requirements for implementing FOIA; establishes accountability for managers and FOIA professionals; and sets requirements for using the FOIA management and tracking system that has been approved by the Agency's Chief FOIA Officer for managing the lifecycle of FOIA requests.

3. AUDIENCE

The audience for this policy includes all EPA organizations, officials, and employees. The audience for this policy is also contractors or grantees and others operating on behalf of the EPA, as described below.

4. BACKGROUND

The FOIA, 5 U.S.C. § 552, was enacted in 1966. The law gives any requester the right to obtain federal agency records unless such records or portions of such records are protected from public disclosure by one or more of the nine exemptions or three law enforcement exclusions contained in the statute. The FOIA applies only to administrative agencies within the federal Executive Branch. It does not apply to records held by Congress, the courts, or

Freedom of Information Act Policy	
EPA Classification No.: CIO 2157.1	CIO Approval Date: 09/30/2014
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by state, local, or tribal government agencies. The FOIA has undergone several amendments since its passage, including the e-FOIA amendments of 1996 and the Openness Promotes Effectiveness in our National (OPEN) Government Act of 2007. The e-FOIA amendments clarified how electronic records should be handled under the FOIA and extended the statutory time for agencies to respond from ten working days to twenty working days. The OPEN Government Act of 2007 made changes to promote a more open and accountable government and established a requirement for each agency to have a Chief FOIA Officer and Public Liaison Officers to assist in reducing delays, increasing transparency and resolving disputes. In conformance with the OPEN Government Act, FOIA requests and EPA decisions are now managed in a FOIA management and tracking system. With very limited exceptions all EPA FOIA responses will be available in the Agency's FOIA management and tracking system for public viewing and searching.

EPA FOIA activities are performed across the Agency under the direction of the Chief FOIA Officer and the National FOIA Program located in the Office of Environmental Information (OEI). The National FOIA Specialists support the EPA FOIA community by providing training, offering guidance, supporting fee waiver and expedited processing activities and staffing the FOIA Requester Service Center. The Office of General Counsel and Offices of Regional Counsel provide legal advice to staff in EPA's program offices who are responding to a request. The Office of Inspector General is independent and provides advice on FOIA matters pertaining to its own organization.

5. AUTHORITY

Freedom of Information Act , 5 U.S.C. § 552.
EPA's FOIA Regulations, Title 40, C.F.R. Part 2, Subpart A.

6. POLICY

It is the policy of the EPA to manage Freedom of Information Act (FOIA) requests as follows:

1. FOIA requests submitted to the Agency will be processed in accordance with the FOIA, applicable Presidential Orders and memoranda, EPA's FOIA regulations, applicable guidance issued by the Department of Justice and the National Archives and Records Administration and applicable EPA FOIA guidance and procedures.
2. FOIA requests submitted to the Agency will be processed throughout their lifecycle using the FOIA management and tracking system approved by the Agency's Chief FOIA Officer.
3. Records found to be responsive to a request will be released unless a mandatory exemption applies or, for discretionary exemptions, the Agency determines that a foreseeable harm that would result from disclosure.
4. At least two knowledgeable individuals, who may be subject matter experts and

Freedom of Information Act Policy	
EPA Classification No.: CIO 2157.1	CIO Approval Date: 09/30/2014
CIO Transmittal No.: 14-006	Review Date: 09/30/2017

including one manager, will review all documents before they are released to the public under the FOIA to improve accuracy and consistency in release determinations. One of the reviews may be performed by the subject-matter expert who processes the request. This is in addition to the review conducted by staff responsible for initially identifying and collecting documents.

5. Organizations will ensure that resources are allocated to comply with meeting FOIA requirements detailed in this policy.
6. Organizations will develop and maintain procedures for processing FOIA requests within their offices that document their business practices. Processing procedures will comply with this policy and with the Agency's FOIA processing procedures issued by the Chief Information Officer.
7. Organizations will identify individuals who have critical FOIA responsibilities in their organizations by name and by position, including but not limited to FOIA Officers, FOIA Coordinators, individuals who are authorized to make decisions regarding the releasability of records (see Item 8 below) and those who review documents before they are released to the public. This information will be made available to the Agency FOIA Officer and to all staff in the organization.
8. Determinations to release or withhold records will be made in accordance with the Freedom of Information Delegation of Authority, I-30. (See EPA Delegations Manual, Chapter 1, Section 30.)
9. FOIA responses will be posted to the Agency's FOIA management and tracking system unless posting the records will create a potential harm protected by a FOIA exemption or if a waiver to post records is granted by the Agency FOIA Officer.
10. FOIA professionals will have the knowledge, skills and abilities to perform their duties.
11. FOIA duties will be critical elements in the performance agreements of FOIA professionals.
12. FOIA professionals will take mandatory annual trainings identified by the Agency FOIA Officer.
13. Agency managers will have critical job elements in their performance agreements that establish accountability for ensuring their FOIA professionals have the knowledge, skills and abilities to perform their duties and respond in a timely manner to requests in accordance with the FOIA.
14. The Agency's FOIA Public Liaison will work to resolve FOIA issues with requesters and foster greater openness and transparency in the Agency's FOIA administration activities and its interactions with the public.
15. Organizations will comply with Agency procedures for processing FOIA requests, along with the guidance and direction issued by the Agency FOIA Officer.

7. RELATED DOCUMENTS

Freedom of Information, EPA Delegations Manual, Chapter 1, Section 30.

Freedom of Information Act Policy	
EPA Classification No.: CIO 2157.1	CIO Approval Date: 09/30/2014
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8. ROLES AND RESPONSIBILITIES

Action Office – The organizational unit that maintains the majority of records responsive to a FOIA request.

Agency FOIA Officer – The Agency FOIA Officer is the program manager for the National FOIA Program. The Agency FOIA Officer coordinates and oversees the EPA FOIA administration responsibilities; issues expedited processing and fee waiver determinations; develops and reviews FOIA policies, procedures, and guidance; provides advice to Agency FOIA personnel in the program and regional offices; prepares annual reports to the Department of Justice (DOJ); and provides FOIA training to Agency employees and other individuals covered under Section 3 of this policy. The Agency FOIA Officer is located in the Office of Environmental Information at EPA Headquarters.

Authorized Officials – The Deputy Administrator, Assistant Administrators, Associate Administrators, the Inspector General, the General Counsel, Heads of Headquarters Staff Offices and Regional Administrators (or their appropriate designee) are authorized under section 2.113(b) of EPA's FOIA regulations to issue initial determinations to release or withhold records in response to FOIA requests. Freedom of Information, EPA Delegations Manual, Chapter 1, Section 30, provides that this authority may be redelegated to the office director level or equivalent, who may redelegate to the division director level or equivalent.

Chief FOIA Officer – The designated high-level official within each federal agency who has overall responsibility for the agency's compliance with the FOIA. At the EPA, the Assistant Administrator for the Office of Environmental Information is the Chief FOIA Officer. The Chief FOIA Officer is responsible for ensuring the efficiency and effectiveness of the Agency's FOIA administration including compliance, accountability and reporting to the Administrator, the Department of Justice, and the Office of Management and Budget on the status of the Agency's FOIA program. *NOTE: This role is different from that of the Agency FOIA Officer above.*

FOIA Coordinators – FOIA Coordinators stay informed on requests and assignments; route requests to the appropriate Action Office or subject matter expert within the Program Office; track FOIA requests for timeliness; monitor the quality of the responses; and provide guidance to program personnel including overdue reports, in collaboration with the Agency FOIA Officer. Each Headquarters Program Office has a lead FOIA Coordinator who works under the general direction of the Agency FOIA Officer.

FOIA Officer – See "Agency FOIA Officer" or "Regional FOIA Officers."

FOIA Offices – The FOIA Office is the point of receipt for Agency FOIA requests where they are reviewed for conformance with the Act, acknowledged and assigned to the appropriate

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Action Office. The locations are identified in the EPA's FOIA regulations for submitting FOIA requests. Agency FOIA Offices are located in each Region and in the National FOIA Program at Headquarters.

FOIA Professional – An EPA employee or contractor who directly interacts with FOIA requesters and is responsible for the day-to-day FOIA processing activities.

FOIA Public Liaison – The FOIA Public Liaison is the EPA point of contact for the public if they have any issues with the handling of their FOIA request by the Agency. In the EPA, the FOIA Public Liaison is the Chief of the FOIA and Privacy Branch in the Office of Information Collection within the Office of Environmental Information. The Public Liaison supervises the staff in the FOIA Requester Service Center and is responsible for assisting in reducing delays, increasing transparency and understanding of the status of requests, and assisting in the resolution of disputes.

FOIA Requester Service Center – The FOIA Requester Service Center (FOIA Hotline) provides the public information on the status of their requests if they do not have access to FOIAonline, general information on how and where to submit a FOIA request, or information about the types of information available on the EPA's websites. The Center is staffed by the FOIA Public Liaison, Agency FOIA Officer and National FOIA Specialists. The Hotline number is 202-566-1667.

Managers and Supervisors – EPA managers and supervisors oversee FOIA Officers and FOIA Coordinators to ensure that they have the knowledge, skills and ability to perform their duties and respond in a timely manner in accordance with the FOIA. They review and approve all FOIA responses before release.

National FOIA Program – The National FOIA Program is staffed by the Agency FOIA Officer and National FOIA Specialists who develop Agency-level policies, procedures and trainings, respond to questions, provide guidance, deliver training, and make decisions on fee waiver and expedited processing requests. The National FOIA Program is located in the Office of Environmental Information.

National FOIA Specialists – National FOIA Specialists manage the lifecycle of FOIA requests received at Headquarters; assign requests to Headquarters FOIA Coordinators; prepare responses to fee waiver and expedited processing requests; approve requests to extend due dates; respond to questions from Agency employees; and staff the FOIA Requester Service Center.

Office of General Counsel (OGC) – OGC provides legal advice on FOIA matters; issues final decisions on FOIA appeals, final confidentiality determinations for confidential business information (CBI) claims originating in HQ, and fee waiver appeal determinations, except when a conflict of interest arises; provides counsel on FOIA exemptions and exclusions; and assists the U.S. Department of Justice attorneys in FOIA litigation.

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Office of Inspector General (OIG) – OIG and the Counsel to OIG provide advice on FOIA matters pertaining to its organization; issue initial determinations and final decisions on FOIA appeals, final confidentiality determinations, except when a conflict of interest arises; provide counsel on FOIA exemptions and exclusions; and assist the U.S. Department of Justice attorneys in FOIA litigation.

Office of Regional Counsel (ORC) – ORC provides legal advice on FOIA matters, final confidentiality determinations for CBI claims originating in the Region, FOIA litigation support to regional employees, and information as needed to the Agency FOIA Officer on fee waiver requests. ORC also assists OGC on appeals, as appropriate.

Regional FOIA Officers – Regional FOIA Officers assign requests to the appropriate Action Office within the region; track FOIA requests; provide guidance to regional personnel in collaboration with the Agency FOIA Officer; coordinate with the Agency FOIA Officer and Action Offices on initial fee waiver decisions; compile data for the annual FOIA report; and monitor the quality and timeliness of responses in the regions. Regional FOIA Officers work under the general direction of the Agency FOIA Officer.

9. DEFINITIONS

Freedom of Information Act (FOIA) – The Freedom of Information Act (FOIA) was signed into law in 1966. The law provides individuals with a statutory right of access to certain federal agency records. The FOIA requires agencies to disclose requested records unless they are protected from public disclosure by the FOIA. Congress included in the FOIA nine exemptions and three law enforcement exclusions to protect important interests such as national security, personal privacy, privileged communications, and law enforcement.

Records – Information in an agency's possession and control in any format including electronic format. DOJ notes that for FOIA purposes, "records" includes *all* tangible documentations of information regardless of whether they are records under 44 U.S.C. § 3301. *(NOTE: This is a broader definition than that used by the EPA records program and records schedules.)*

Requester – Any individual (including non-U.S. citizens), corporation or association, public interest group, and state, local, tribal, or foreign government making a FOIA request. Requests from Federal agencies, the Government Accountability Office, or Congress (e.g., the Speaker of the House, the President of the Senate, or the chair of a committee or subcommittee) are not covered under this policy.

Responsive Record – A record falling within the scope of a FOIA request that an agency has located that may be provided or is under consideration for inclusion in a response to a FOIA request. A record may be "responsive" to a FOIA request, but may still be withheld as protected from disclosure by a FOIA exemption.

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10. WAIVERS

No waivers will be accepted from the requirements of this policy.

11. RELATED POLICIES, STANDARDS AND GUIDANCE


- Procedures for Responding to Freedom of Information Act Requests, CIO 2157-P-01.
- FOIA memoranda and guidance documents (<http://www.epa.gov/foia/reference.html>).
- FOIA guidance issued by the Department of Justice (<http://www.justice.gov/oip/foia-resources.html>).

12. MATERIAL SUPERSEDED

Interim Freedom of Information Act Policy (CIO 2157.0/Transmittal 13-004 dated June 28, 2013)

13. ADDITIONAL INFORMATION

For further information, please contact the Office of Environmental Information, Office of Information Collection.


 Renee P. Wynn
 Acting Assistant Administrator for Environmental Information
 and Chief Information Officer
 U. S. Environmental Protection Agency



INFORMATION DIRECTIVE PROCEDURE

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*Issued by the EPA Chief Information Officer,
Pursuant to Delegation 1-19, dated July 7, 2005*

Procedures for Responding to Freedom of Information Act Requests

1. PURPOSE

These procedures provide basic instructions for responding to Freedom of Information Act (FOIA) requests submitted to EPA. They address statutory, regulatory, policy, procedural and processing requirements to be followed by all EPA organizations and must comprise the core of all office-specific FOIA processing procedures.

2. SCOPE AND APPLICABILITY

The scope of these procedures covers work performed by EPA employees, grantees, contractors, and interns in support of FOIA administration activities in Headquarters, regional offices, field offices and EPA laboratories.

3. AUDIENCE

The audience for these procedures includes all EPA organizations, officials, and employees. The audience for these procedures is also contractors or grantees and others operating on behalf of the EPA.

4. BACKGROUND

The FOIA, 5 U.S.C. § 552, was enacted in 1966. The law gives any requester the right to obtain access to federal agency records unless such records or portions of such records are protected

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from public disclosure by one or more of the nine exemptions or three law enforcement exclusions contained in the statute. There are nine FOIA exemptions:

- 1) Classified national defense and foreign relations information.
- 2) Internal agency rules and practices.
- 3) Information that is prohibited from disclosure by another federal law.
- 4) Trade secrets and other confidential business information.
- 5) Inter-agency or intra-agency communications that are protected by legal privileges.
- 6) Information involving matters of personal privacy (protected under the Privacy Act or containing sensitive personally identifiable information).
- 7) Information compiled for law enforcement purposes, to the extent that the production of those records:
 - a) Could reasonably be expected to interfere with enforcement proceedings.
 - b) Would deprive a person of a right to a fair trial or an impartial adjudication.
 - c) Could reasonably be expected to constitute an unwarranted invasion of personal privacy.
 - d) Could reasonably be expected to disclose the identity of a confidential source.
 - e) Would disclose techniques and procedures for law enforcement, investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions.
 - f) Could reasonably be expected to endanger the life or physical safety of any individual.
- 8) Information relating to the supervision of financial institutions.
- 9) Geological information on wells.

The FOIA applies only to administrative agencies within the federal Executive Branch. It does not apply to records held by Congress, the courts, or by state, local, or tribal government agencies. The FOIA has undergone several amendments since its passage, including the e-FOIA amendments of 1996 and the Open Government Act of 2007. The e-FOIA amendments clarified how electronic records should be handled under the FOIA and extended the statutory time to respond from ten working days to twenty working days. The Open Government Act of 2007 made changes to promote a more open and accountable government and established a requirement for each agency to have a Chief FOIA Officer and a FOIA Public Liaison to assist in reducing delays, increasing transparency and resolving disputes. It also established the Office of Government Information Services within the National Archives and Records Administration to provide mediation services for resolution of disputes between persons making FOIA requests and administrative agencies as well as to provide input and guidance on the effective administration of the FOIA across federal agencies.

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The Open Government Act promotes the use of technology to achieve more efficient disclosure of information to the public. To improve its FOIA management and processes, the EPA deployed FOIAonline, a shared service, as its new FOIA management system in October 2012.

FOIAonline automates core processing and administrative activities. All FOIA requests received at the EPA will be managed throughout their lifecycle in FOIAonline. All records provided by the EPA in response to a FOIA request will be entered into FOIAonline for public viewing and searching unless the volume of paper records is very large and conversion to electronic format is not practical or the response is subject to special handling requirements or policies (e.g., contains Confidential Business Information that is only appropriate to release to the requester/owner of the CBI and is not appropriate for public release). These exceptions will be reviewed on a case by case basis by the Agency FOIA Officer. A copy of the exception decision will be maintained in the system. If records provided in response to a request are not entered into FOIAonline because of these conditions, a placeholder document must be uploaded with contact information for obtaining a copy of the response. The organizational unit that has responsibility for responding to the request (known throughout this document as the Action Office) must maintain the records and make them readily available for responding to future requests.

This document does not provide “how-to” instructions for using FOIAonline, but does reference features of the system that help accomplish certain FOIA tasks outlined in this procedure. The Agency sponsors FOIAonline trainings for managers, supervisors and staff and has developed FOIAonline user guides that are available at <https://foiaonline.regulations.gov/foia/action/public/home>.

These procedures are intended to ensure that the Agency responds to FOIA requests in accordance with statutory requirements, the EPA’s implementing regulations, and open government and transparency policies.

Program Offices and Regions will develop or update organizational FOIA procedures to conform to this document within 180 days of this document being finalized. All procedures must be consistent with the EPA’s FOIA regulations and statutory requirements.

These procedures will be supplemented by role-based and general awareness trainings for the audience identified under Section 3, above.

5. AUTHORITY

Freedom of Information Act , 5 U.S.C. § 552.

EPA's FOIA Regulations, Title 40, C.F.R. Part 2, Subpart A.

CIO Policy 2157.0, Freedom of Information Act (FOIA) Policy

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6. PROCEDURES

The Agency's FOIA regulations direct the public to send FOIA requests, in writing, to EPA Headquarters, Regional FOIA Offices or through a form on the Agency's FOIA website (which provides a link to FOIAonline). Requests received in any other Agency office should be immediately forwarded to the appropriate FOIA Officer so that the requester does not incur undue processing delays. See 40 C.F.R. 2.102(a).

The actions identified in Steps 1-5, below, are performed by staff in FOIA offices. Regions and Program Offices will decide who performs the steps identified in these procedures.

INITIATING THE PROCESS

The FOIA process officially begins when a request is received in any Agency FOIA Office. Requesters may request a fee waiver and/or expedited processing at the time they submit their request.

Step 1 – Receive, Review, and Acknowledge Incoming Requests. The public may submit requests to the Agency via FOIAonline, postal mail, email, or hand delivery. The FOIA Office receiving the request will verify that the request: 1) is in writing; 2) provides a mailing address; 3) asks for Agency records; and 4) reasonably describes the records sought. A description is sufficient if it enables an Agency employee familiar with the subject area to locate the record with a reasonable amount of effort. See also, 40 C.F.R. § 2.102(c).

- ☐ ***Improper FOIA requests include:***
 - ☐ *Requests that do not reasonably describe the records sought;*
 - ☐ *Requests that pose questions, rather than seek documents.*
- ☐ ***FOIA does not require EPA to:***
 - ☐ *Create new records or future records in response to a request;*
 - ☐ *Re-create records which were properly disposed of;*
 - ☐ *Produce records the Agency retains no control over;*
 - ☐ *Re-provide records which EPA already makes available to the public; or*
 - ☐ *Produce purely personal records.*

If the requestor provided an email address, FOIAonline will automatically send a receipt to the requester that includes the tracking number and submission date for all requests processed in the system. Requests received after 5 pm EST or on weekends or holidays are not considered received until the next business day. If a request is not received through FOIAonline, the FOIA Office will enter the request in the system within one working day of receipt and issue an acknowledgement through FOIAonline if an email address is provided. Postal mail will be used by the FOIA Office if an email address is not provided. The

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acknowledgement letter will provide the tracking number and the date the request was received by EPA.

Step 2 – Determine if the Request is in the Correct FOIA Office. The receiving FOIA Office will determine where responsive records are most likely located in the Agency. When a request is received at an Agency FOIA Office and all responsive records are determined to be located in another Region or Headquarters, the receiving FOIA Office will assign the request in FOIAonline to the appropriate FOIA Office for processing. If the receiving FOIA Office does not know where responsive records are located, the FOIA Office will consult with the Headquarters FOIA Office. See also, 40 C.F.R. § 2.103(a).

The FOIA allows agencies up to 10 working days to route a misdirected request before the 20 working day period to respond begins. For the purposes of this 10 day allowance, a request is “misdirected” if it is sent to a FOIA Office that is not located with the Program or Regional Office that will have the responsive records. Requests sent by the public to an office other than a FOIA Office are also misdirected and must be immediately sent to the local FOIA Office.

After steps 1 and 2 are complete, the request is considered “perfected.” Requests should be “perfected” on the same day they are received by the correct FOIA Office. The FOIA Office will enter the “perfected” status in FOIAonline to initiate the 20 day working period. FOIAonline will automatically initiate the 20 working day period on the 11th working day after the request was received, even if the request has not been perfected.

Step 3 – Determine the Fee Category. EPA FOIA Offices will determine how requesters will be charged processing fees based on their fee category. The fee categories under the FOIA are: (1) Commercial Use, (2) Educational Institution or Non-Commercial Scientific Institution, (3) Representative of the News Media and (4) Other. See also, 40 C.F.R. § 2.107. (See Step 8 below for information on calculating fees.)

Step 4 – Process Fee-Waiver (FW) and Expedited Processing (EP) Requests. All requests for fee waivers and expedited processing must be submitted with the initial FOIA request (see 40 C.F.R. § 2.107(l) (5)). Decisions on FW and EP requests will be made by the Agency FOIA Officer based on the factors outlined in 40 C.F.R. § 2.107(l) (5) and 2.104(e), respectively.

FW and EP requests submitted to a Regional FOIA Office will be transferred by the Regional FOIA Officer to the Headquarters FOIA Office through FOIA-online for processing. (Please note that the region retains the responsibility for responding to the request for records.)

Whether a request is likely billable or unbillable will be communicated to the Headquarters FOIA Office by the organization to which the request is assigned within 48 hours of receipt of the request. The Agency FOIA Officer will determine if fees will likely be incurred by the requester before deciding on the request. (A request for a fee waiver is moot when no fees are associated with processing the request.)

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The Agency FOIA Officer will make the initial decision whether to grant or deny a FW or EP request. The individual assigned the request will be notified via an email from FOIAonline that a determination has been issued. If the FW and EP request is assigned to a group rather than to an individual, FOIAonline will not send an email, but will alternatively provide an internal system message to each group member the next time that person logs on.

The Agency must decide whether to grant or deny an EP request within 10 calendar days of receipt. If the request is granted, it must be given priority by the Action Office and be the next request in line for processing. See C.F.R. § 2.104(3) (4). However, the request itself is not required to be processed within the 10 calendar days.

Step 5 – Assign the Request to the Action Office. In most cases, the FOIA Office will assign the request in FOIAonline to the primary FOIA Coordinator in the Program or Regional Office believed to most likely house the majority of responsive records. The FOIA Coordinator will assign a lead office within that organization (the “Action Office”). When the requester is seeking records about or created by an individual, the organization where the individual worked at the time the records were created will become the Action Office and have responsibility for processing the request.

Often, additional Programs and/or Regions may have responsive records (“Contributing Office”). The Action Office will assign each Contributing Office a task in FOIAonline for them to provide responsive records. These Contributing Offices will coordinate the Agency’s response with the Action Office, including uploading responsive records to the system.

PROCESSING THE REQUEST IN ACTION OFFICES

An organization’s¹ internal FOIA processing procedures will determine who performs steps 6-16 identified in this procedure on behalf of the Action Office and the FOIA Coordinator. However, the steps will remain the same regardless of who performs them.

At Headquarters, each Office of an Assistant Administrator and the Office of the Administrator has a primary FOIA Coordinator who receives the assignment from the Headquarters FOIA Office. FOIA requests in regions are received by the Regional FOIA Officer who selects the appropriate division, branch or individual within the organization which is known as the Action Office. Regions have a primary FOIA Coordinator and the function may be performed by various staff persons. At Headquarters, the primary FOIA Coordinator will assign the request to the Action Office. Non-primary FOIA Coordinators may also be located at the division and branch levels at Headquarters and in regions depending on the business practices of the particular organization. An organization’s business practices determine the workflow and roles and responsibilities when a request is received for action. These practices will be detailed in the organization’s FOIA procedures.

¹ An EPA region (e.g., Region 1) or the Office of an Assistant Administrator (e.g., OGC).

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When an assignment is received from a FOIA Office, the primary FOIA Coordinator or regional person (designated by the Regional FOIA Officer) will determine which of the offices in the organization (e.g., staff offices, divisions, or branches) are likely to have records responsive to the request. The primary FOIA Coordinator or regional person will assign the request to the appropriate office or FOIA professional using FOIAonline. If the description of the records requested is not sufficient for the primary FOIA Coordinator or regional person to assign the request to an office, the primary FOIA Coordinator or regional person will contact the requester for additional information. All communications, including verbal conversations with the requester, will be documented for the official record and entered into FOIAonline. Communications may include discussion of scope, deadlines, or other issues.

NOTE: For large, complex FOIA requests, it is suggested that the Action Office convene meetings with all interested Agency parties in order to clarify responsibilities, methods to be used for collection, and similar issues. Those meetings should include programmatic experts, Records Liaison Officers, information technology specialists, and legal counsel, as appropriate.

Step 6 – Determine Search Parameters. The Action Office will determine the cut-off date for records subject to the request. Under the EPA’s regulations (40 C.F.R. § 2.103 (a)) for determining what records are within the scope of the request, the Action Office will usually include only those records in its possession as of the date the request was received by the FOIA Office, unless the request specifically seeks a more limited scope. If a different date is used, the Action Office will inform the requester of that date.

The request will also be reviewed to determine the subject matter of the records the requester is seeking. If it is deemed necessary for the person processing the FOIA to obtain clarification or additional information from the requester, the time necessary to reformulate the request will be excluded from the statutory 20 working day period (or any authorized extension of time) that the EPA has to respond to the request. The FOIA permits the Agency to “stop the clock” **one** time during the first 20 days after receipt, to seek information and clarification from the requester. Although the requester may be contacted as many times as needed to clarify the scope of the request, the clock may only be stopped once. Once the clock has been stopped, it should not be restarted until the information or clarification is provided. All communications must be documented for the official record and entered into FOIAonline, and the deadlines adjusted in the system, as appropriate.

Step 7 – Determine if Additional Responsive Records are in Other Agency Organizations. When additional responsive records are determined to be located in other Agency organizations, or the request is incorrectly assigned, the appropriate FOIA Office should be notified by the FOIA Coordinator or the organizational subject matter expert within two working days of receiving the assignment. Action Offices should return misdirected requests to the local FOIA Office for re-assignment within two working days.

NOTE: The FOIA Office will create a task in FOIAonline to request additional records from

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another EPA organization.

Step 8 – Estimate Processing Fees. The EPA's FOIA regulations require an assurance of payment from the requester if fees are expected to exceed \$25.00 or an amount specified by the requestor. Unless a waiver of fees has been granted by the Agency FOIA Officer, the Action Office will estimate the processing fee which will be charged as specified in 40 C.F.R. § 2.107. Search fees may apply even when no responsive records are identified or no responsive records are disclosed to the requester. The EPA's FOIA Regulations (40 C.F.R. § 2.107(j)) also define circumstances where it may be appropriate to require advance payment of the estimated fees, if the fees are expected to exceed \$250.

Fees are determined by the type of staff performing the work, the type of requester, and the category of work performed. Fees are calculated as follows:

Type of Staff	Charge Per Quarter Hour
Clerical Staff	\$4.00 per ¼ hr
Professional Staff	\$7.00 per ¼ hr
Managerial Staff	\$10.25 per ¼ hr

Type of Requester	Fee Category to be Charged		
	Search	Review	Duplication
Commercial	Yes *	Yes	Yes
Educational	No	No	Yes (100 pages free)*
Non-commercial	No	No	Yes (100 pages free)*
Scientific	No	No	Yes (100 pages free)*
News Media	No	No	Yes (100 pages free)*
All Others	Yes (First 2 hours free)*	No	Yes (100 pages free)

*Fees shaded in grey above cannot be charged if the Agency fails to comply with time limits for response.

Step 9 - Determine Response Time. The FOIA requires agencies to provide a substantive response within 20 working days. In such instances when the Action Office determines the response cannot be completed within 20 working-days, the EPA may extend the due date if "unusual circumstances," as defined by the FOIA, apply.

An "unusual circumstance" exists when there is: (1) a need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request; (2) a need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; and (3) a need for consultation, which will be conducted with all practicable speed, with another

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agency or among two or more components of the EPA having a substantial interest in the determination of the request.

If unusual circumstances exist and there is a need to extend the due date for 10 working days or less, the Action Office must, within the 20 working day time limit, notify the requester in writing that unusual circumstances exist and provide the new due date. When the unusual circumstances result in a need to extend the due date for more than 10 working days, the Action Office must also provide the requester, within the 20 working days, the contact information for the EPA's FOIA Public Liaison and an opportunity to either (a) modify the request so that it may be processed within the 10 working day extension or (b) arrange an alternative time period for processing the original or modified request.

If unusual circumstances do not exist, or if the due date has already been extended and additional time is needed to complete the response, the Action Office should seek a reasonable extension from the requester. To aid the requester, the Action Office will provide the requester the contact information for the EPA FOIA Public Liaison, who will assist in the resolution of any disputes between the requester and the EPA. If the requester does not agree to an extension, the Action Office will fulfill the request as soon as possible. The requester may file an administrative appeal or may pursue litigation. For instances where the FOIA requester is the prevailing party of a litigation case and the EPA is required to pay legal fees, please refer to Office of the Chief Financial Officer's FOIA Fee Policy, RMDS 2540-04-P2. In any event, the Action Office should communicate any extensions and expected completion dates with the requester. All communications must be documented for the official record and entered into FOIAonline.

The Action Office also enters the new requested due date and the justification for the extension into FOIAonline. The system generates a notice to the Headquarters or appropriate Regional FOIA Office for approval. The FOIA Office will make a decision within two working days, document the decision, with comments if necessary, in FOIAonline, and communicate the new date to the Action Office. The Action Office will communicate the new due date to the requestor.

Step 10 – Collect and Review the Records. The Action Office and each Contributing Office is responsible for identifying, collecting and reviewing records within the scope of the request as discussed in Step 6, and as outlined in any organization-specific procedures. This includes the responsibility for consultation and referral with other federal agencies. Contributing Offices are also responsible for coordinating responsive activities with the Action Office (i.e., the office that is determined to have the majority of responsive records) when more than one office has responsive records (see Step 5 above). The Action Office and each Contributing Office should also assure that protected information has been redacted from records before they are released.

The Action Office and Contributing Offices will: 1) ensure that redacted information cannot be read through photocopied records; 2) remove "hidden" metadata as appropriate (e.g. Microsoft Word document properties); and 3) annotate records with the applicable FOIA exemption(s) at the location of the redacted information. A copy of both the original and redacted record will be

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stored in FOIAonline, unless subject to special handling requirements (e.g., large volume) or policies. Exceptions to this storage requirement are approved on a case by case basis by the Agency FOIA Officer. FOIAonline allows FOIA professionals to put records in the system that are not released to the public. This protects records that have been withheld.

If records provided in response to a request are not entered into FOIAonline because of special handling requirements or policies, or because the volume of files make it impractical to upload the complete response, a placeholder document must be uploaded with contact information for how to obtain a copy of the response that the responding office will maintain and make readily available.

NOTE: Only records that have been: 1) marked published and 2) approved for release are available to the public in FOIAonline.

Step 11 – Determine Which Records (or Portions) May Be Released. After thorough review, the Action Office will prepare to release responsive, non-exempt records or portions of records. All records released or being withheld in total in response to a FOIA request must be reviewed by at least two knowledgeable individuals, including one manager or supervisor to ensure openness, transparency, consistency, and the appropriate application of FOIA exemptions. One of the reviews may be performed by the individual who processes the request. Action Offices may consult with the Agency FOIA Officer, their Office of Regional Counsel (ORC), or Office of General Counsel (OGC) for questions regarding withholding of records under a FOIA exemption. If a discretionary FOIA exemption (Exemptions 2, 5, 7 (excluding 7(c)), 8 and 9) is implicated, Action Offices should only withhold records, or portions of records, when they reasonably foresee that disclosure would harm an interest protected by one of the exemptions or when disclosure is prohibited by law.

Responsive records that have been properly reviewed and redacted (if necessary) will be subject to one of the following outcomes:

- a) Release in Full. The record, in its entirety, may be released to the requester.
- b) Partial Grant/Partial Denial. Portions of the record will be withheld from the requester if covered by either one or multiple FOIA exemptions. The portions of the record that are not redacted are released to the requester.
- c) Withhold in Full. The record, in its entirety, will be withheld from the requester if covered by either one or multiple FOIA exemptions.
- d) No Record. If, after a reasonable search likely to uncover all responsive documents, no records are located that are responsive to the request, the requester will be informed in writing. A no records certification form must be completed for no record responses and entered in FOIAonline. Please note: This form is not sent to the requester.
- e) Confidential Business Information (CBI). For records or parts of records that have been claimed as CBI or would be claimed as CBI if the business knew the EPA proposed to disclose the information, the procedures set out in 40 C.F.R. § 2.204 must be followed.

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- f) Glomar Response. In some instances, the EPA may expressly refuse to confirm or deny the existence of records responsive to a FOIA request; this is called a Glomar response. The response letter will inform the requester that the request is denied because "either the records do not exist or they are exempt from mandatory disclosure under the applicable provision of FOIA." The Action Office must obtain approval from OGC or ORC prior to issuing a Glomar response.

Step 12 – Prepare Response Letter. The Action Office will prepare the response letter using standard language, if suitable, and obtain necessary concurrences. All response letters must include: (1) the FOIA tracking number and (2) appeal language, as appropriate. FOIA requesters have the right to appeal initial FOIA decisions made by the EPA if:

- No records were found;
- The response time has exceeded the statutory authority or documented extensions;
- The request for expedited processing was denied;
- The request for a fee waiver was denied;
- The requestor believes some records or portions of records were improperly withheld;
- The requestor believes the search was inadequate; or
- The requestor believes the fee category in which they were placed is incorrect.

In addition, response letters that withhold Agency records, in total or in part, are required to identify the:

- Records withheld individually or by category of similar documents if voluminous;
- Applicable FOIA exemption(s) under which the record is being withheld and a brief statement explaining the reason for the denial; and
- Authorizing official by name and title (see Step 14 below for list of Authorized Officials).

Step 13 – Finalize Processing Fees. The Action Office will inform the requesters in the response letter if fees for processing the request are not billable (i.e., equal to or less than \$14.00). If the processing fees are billable (i.e., greater than \$14.00), FOIAonline will generate the invoice.

NOTE: The Administrative Cost section in FOIAonline must be completed to document billable and unbillable costs in FOIAonline. All offices working on a request will enter their administrative costs in FOIAonline. The EPA is required to document actual fees charged to the public (billable) and the administrative costs (unbillable) incurred by the agency in processing FOIA requests.

Step 14 – Obtain Approval from an Authorized Official to Release or Withhold Records. The Deputy Administrator, Assistant Administrators, Regional Administrators, the General Counsel, the Inspector General, Associate Administrators, and heads of headquarters staff offices (or their appropriate designee) are delegated the authority to issue initial determinations

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to release or withhold records in response to FOIA requests. See EPA Freedom of Information Delegation of Authority, Section 1-30.

NOTE: Initial determinations (both release and withholding determinations) may be redelegated only to persons occupying positions not lower than division director or equivalent.

Step 15 – Respond to Request. The Action Office will provide the response letter, responsive records and invoice (when applicable) to the requester through FOIAonline. If an email address is provided, the requester will be notified via email that the responsive records are available in FOIAonline. Otherwise, the response package will be provided via postal mail.

The response letter must include a description of the information withheld either by category and volume, or by a list. In all cases the response letter must also include the standard administrative appeal language.

Step 16 – Finalize Actions. The Action Office will ensure all supporting documentation is entered in FOIAonline (e.g., records of conversations or notes to the record). The record copy of the FOIA response will be maintained in FOIAonline, including all responsive records. Once published, these records become available for public searching and viewing.

If the volume of paper records is very large and conversion to electronic format is not practical or the response is subject to special handling requirements or policies, the Agency FOIA Officer will consider granting an exception to the requirement to load the records into FOIAonline. Reviews are made on a case by case basis. A copy of the decision by the Agency FOIA Officer will be maintained in the system. If the exception is granted, a placeholder document must be uploaded in FOIAonline with contact information for obtaining a copy of the responsive records. The Action Office that has responsibility for responding to the request must maintain the records according to applicable record schedules and make them readily available for responding to future requests.

The Action Office will close the request in FOIAonline.

7. RELATED DOCUMENTS

- <http://www.epa.gov/FOIA/FOIAregs.htm>
 - <http://www.justice.gov/oip/amended-FOIA-redlined.pdf>
 - <http://intranet.epa.gov/oei/imitpolicy/qic/ciopolicy/2171-p-01.pdf>
 - <http://www.archives.gov/about/organization/summary/ogis.html>
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8. ROLES AND RESPONSIBILITIES

Action Office – The organizational unit that maintains the majority of records responsive to a FOIA request.

Agency FOIA Officer – The Agency FOIA Officer is the program manager for the National FOIA program. The Agency FOIA Officer coordinates and oversees the EPA FOIA administration responsibilities; issues expedited processing and fee waiver determinations; develops and reviews FOIA procedures, policies, and guidance; provides advice to Agency FOIA personnel in the program and regional offices; prepares annual reports to the Department of Justice (DOJ); and provides FOIA training to agency employees and other individuals covered under Section 3 of these procedures. The Agency FOIA Officer is located in the Office of Environmental Information at EPA headquarters.

Authorized Officials – The Deputy Administrator, Assistant Administrators, Associate Administrators, the Inspector General, the General Counsel, Heads of Headquarters Staff Offices and Regional Administrators (or their appropriate designee) are authorized under section 2.113(b) of EPA's FOIA regulations to issue initial determinations to release or withhold records in response to FOIA requests. Freedom of Information, EPA Delegations Manual, Chapter 1, Section 30, provides that this authority may be redelegated to the office director level or equivalent, who may redelegate to the division director level or equivalent.

Contributing Office – Organizational units that possess responsive records in addition to the Action Office.

Chief FOIA Officer – The designated high-level official within each federal agency who has overall responsibility for the agency's compliance with the FOIA. At the EPA, the Assistant Administrator for the Office of Environmental Information is the Chief FOIA Officer. The Chief FOIA Officer is responsible for ensuring the efficiency and effectiveness of the Agency's FOIA administration including compliance, accountability and reporting to the Administrator, the Department of Justice, and the Office of Management and Budget on the status of the Agency's FOIA program. NOTE: This role is different from that of the Agency FOIA Officer above.

FOIA Coordinators – FOIA Coordinators stay informed on requests and assignments; route requests to the appropriate Action Office or subject matter expert within the Program Office; track FOIA requests for timeliness; monitor the quality of the responses; and provide guidance to program personnel including overdue reports, in collaboration with the Agency FOIA Officer. Each Headquarters Program Office has a lead FOIA Coordinator who works under the general direction of the Agency FOIA Officer. See also "Primary FOIA Coordinators".

FOIA Officer – See "Agency FOIA Officer" or "Regional FOIA Officers."

FOIA Offices – The FOIA Office is the point of receipt for Agency FOIA requests where they are reviewed for conformance with the Act, acknowledged and assigned to the appropriate

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Action Office. The locations are identified in the EPA's FOIA regulations for submitting FOIA requests. Agency FOIA Offices are located in each Region and in the National FOIA Program at Headquarters.

FOIA Professional – An EPA employee or contractor who directly interacts with FOIA requesters and is responsible for the day-to-day FOIA processing activities.

FOIA Public Liaison – The FOIA Public Liaison is the EPA contact point for the public if they have any issues with the handling of their FOIA request by the Agency. In the EPA, the FOIA Public Liaison is the Chief of the FOIA and Privacy Branch in the Office of Information Collection within the Office of Environmental Information. The Public Liaison supervises the staff in the FOIA Requester Service Center and is responsible for assisting in reducing delays, increasing transparency and understanding of the status of requests, and assisting in the resolution of disputes.

FOIA Requester Service Center – The FOIA Requester Service Center (FOIA Hotline) provides the public information on the status of their requests if they do not have access to FOIAonline, general information on how and where to submit a FOIA request, or information about the types of information available on the EPA's websites. The Center is staffed by the FOIA Public Liaison, Agency FOIA Officer and National FOIA Specialists. The Hotline number is 202-566-1667.

Managers and Supervisors – EPA managers and supervisors oversee FOIA Officers and FOIA Coordinators to ensure that they have the knowledge, skills and ability to perform their duties and respond in a timely manner in accordance with the FOIA. They review and approve all FOIA responses before release.

National FOIA Program – The National FOIA Program is staffed by the Agency FOIA Officer and National FOIA Specialists who develop Agency-level policies, procedures and trainings, respond to questions, provide guidance, deliver training, and make decisions on fee waiver and expedited processing requests. The National FOIA Program is located in the Office of Environmental Information.

National FOIA Specialists – National FOIA Specialists manage the lifecycle of FOIA requests received at Headquarters; assign requests to Headquarter FOIA Coordinators; prepare responses to fee waiver and expedited processing requests; approve requests to extend due dates; respond to questions from Agency employees; and staff the FOIA Requester Service Center.

Office of General Counsel (OGC) – OGC provides legal advice on FOIA matters; issues final decisions on FOIA appeals, final confidentiality determinations for CBI claims originating in HQ, and fee waiver appeal determinations, except when a conflict of interest arises; provides counsel on FOIA exemptions and exclusions; and assists the U.S. Department of Justice attorneys in FOIA litigation.

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Office of Inspector General (OIG) – OIG and the Counsel to OIG provide advice on FOIA matters pertaining to its organization; issue initial determinations and final decisions on FOIA appeals, final confidentiality determinations, except when a conflict of interest arises; provide counsel on FOIA exemptions and exclusions; and assist the U.S. Department of Justice attorneys in FOIA litigation.

Office of Regional Counsel (ORC) – ORC provides legal advice on FOIA matters, final confidentiality determinations for CBI claims originating in the Region, FOIA litigation support to regional employees, and information as needed to the Agency FOIA Officer on fee waiver requests. ORC also assists OGC on appeals, as appropriate.

Primary FOIA Coordinator – The lead FOIA Coordinator in an organization who works under the general direction of the Agency FOIA Officer.

Regional FOIA Officers – Regional FOIA Officers assign requests to the appropriate Action Office within the region; track FOIA requests; provide guidance to regional personnel in collaboration with the Agency FOIA Officer; coordinate with the Agency FOIA Officer and Action Offices on initial fee waiver decisions; compile data for the annual FOIA report; and monitor the quality and timeliness of responses in the regions. Regional FOIA Officers work under the general direction of the Agency FOIA Officer.

Subject Matter Experts – Subject matter experts identify and locate records requested under FOIA. These individuals are located in all EPA organizations and include all professional disciplines. If permitted under the applicable delegation and after obtaining any necessary concurrences, the subject matter experts may respond to requests directly or provide the responsive records to the FOIA Coordinator who facilitates the response for the Agency. They must, however, follow the review process prescribed in this procedure.

9. DEFINITIONS

Administrative Appeal – An independent review of the initial determination made in response to a FOIA request. Requestors who are dissatisfied with the response made on their initial request have a statutory right under 40 C.F.R. § 2.104(j) to appeal the initial determination to an office in the Agency which will conduct an independent review. *(NOTE: OGC is responsible for managing all FOIA appeals at the EPA with the exception of appeals that involve FOIA requests to the OIG or FOIA requests where OGC is the Action Office on the initial response. OIG handles its own appeals. The Office of the Administrator processes appeals where the OGC is the Action Office on the initial response.)*

Case – All records pertaining to a FOIA request.

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Commercial Use – A type of request from or on behalf of a person who seeks information for a use or purpose that furthers his/her commercial, trade, or profit interests, which can include furthering those interests through litigation.

Consultation – When an agency locates a record or a record that contains information provided by or of interest to another agency, it will ask for the views of that other agency on the disclosability of the records before any final determination is made. This process is called a “consultation.” (See also “referral.”)

Confidential Business Information – Trade secrets and commercial or financial information obtained from a person [that is] privileged or confidential.

Educational Institution – A preschool, public or private elementary or secondary school, an institution of undergraduate higher education, an institution of graduate higher education, an institution of professional education or an institution of vocational education, which operates a program or programs of scholarly research.

Existing records – Agency records that exist as of the date a FOIA request is received by the EPA.

Expedited Processing – The processing of a FOIA request out of the order in which it was received and prioritized over other pending FOIA requests. The standards for expedited processing are set out in the FOIA and in the regulations of each federal agency.

Fee Categories – Categories under FOIA that determine assessments of fees to requesters. Requesters fall into one of five fee categories: (1) commercial requesters; (2) educational; (3) noncommercial scientific institutions; (4) representatives of the news media; and (5) all other requesters (i.e., requesters who do not fall into any of the other four categories).

Fee Waiver – A request made to an agency to waive any applicable fees for its processing of a FOIA request. Fee waivers are limited to situations in which a requester can show that the disclosure of the requested information is in the public interest because it is likely to contribute significantly to public understanding of the operations and activities of the government and is not primarily in the commercial interest of the requester. Requests for a fee waiver are evaluated on a case-by-case basis.

FOIAonline – The EPA’s FOIA tracking and management system.

FOIA Exemptions – Contained at 5 U.S.C. § 552(b) (1)-(9). See <http://intranet.epa.gov/foia/exemptions.html> or the box on page 2 of these procedures.

FOIA Time Limits – The time period in the FOIA statute for an agency to respond to a FOIA request (ordinarily twenty working days from the day a FOIA request is received and logged in by the appropriate FOIA Office).

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Freedom of Information Act (FOIA) – The Freedom of Information Act (FOIA) was signed into law in 1966. The law provides individuals with a statutory right of access to certain federal agency records. The FOIA requires agencies to disclose requested records unless they are protected from public disclosure by the FOIA. Congress included in the FOIA nine exemptions and three law enforcement exclusions to protect important interests such as national security, personal privacy, privileged communications, and law enforcement.

Full Denial – An agency decision not to release any records in response to a FOIA request because the records are exempt in their entirety under one or more of the FOIA exemptions, or because of a procedural reason, such as when no records could be located. A denial response must be signed by an Authorized Official.

Full Grant – An agency decision to disclose all records in full in response to a FOIA request.

Glomar Response – An agency's express refusal to confirm or deny the existence or non-existence of records responsive to a FOIA request.

Initial Request – The request submitted by an individual to a federal agency for access to agency records on any topic. A FOIA request can generally be made by any person, to any federal agency, and only requires that requesters reasonably describe the records they are seeking and comply with agency regulations for making such requests.

Media Requester – Any person making a FOIA request who actively gathers news for an entity that is organized and operated to publish or broadcast news to the public that actively gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw materials into a distinct work, and distributes that work to an audience. A request for records that supports the news-dissemination function of the requester shall not be considered to be for a commercial use.

Non-Commercial Scientific Institution – An institution that is not operated on a commercial basis but operated solely for conducting scientific research, the results of which are not intended to promote any particular product or industry.

No Records Response – A FOIA request for which no responsive records were located.

Partial Grant/Partial Denial – An agency decision to disclose records or portions of records while withholding other records or portions of records that are exempt under the FOIA, or to otherwise deny a portion of the request for a procedural reason.

Pending Request or Administrative Appeal – A request or administrative appeal for which an agency has not taken final action in all respects.

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Perfected Request – A request for records that clearly describes the records sought and the procedures that will be followed to develop a response.

Processed Request or Processed Administrative Appeal – A request or administrative appeal for which an agency has taken final action in all respects.

Records – Information in an agency’s possession and control in any format including electronic format. DOJ notes that for FOIA purposes, "records" includes *all* tangible documentations of information regardless of whether they are records under 44 U.S.C. § 3301. (NOTE: This is a broader definition than that used by the EPA records program and records schedules.)

Redact – The act of removing exempt information from responsive documents either manually or utilizing redaction software.

Referral – When an agency locates a record that originated with, or is of otherwise primary interest to another agency, it will forward that record to the other agency to process the record and to provide the final determination directly to the requester. This process is called a “referral.” (See also “consultation.”)

Requester – Any individual (including non-U.S. citizens), corporation or association, public interest group, and state, local, tribal, or foreign government making a FOIA request. Requests from federal agencies, the Government Accountability Office, or Congress (e.g., the Speaker of the House, the President of the Senate, or the chair of a committee or subcommittee) are not processed under these procedures.

Responsive Record – A record falling within the scope of a FOIA request that an agency has located that may be provided or is under consideration for inclusion in a response to a FOIA request. A record may be “responsive” to a FOIA request, but may still be withheld as protected from disclosure by a FOIA exemption.

Unusual Circumstances – When there is: (1) a need to search and collect documents from organizations separate from the organization processing the request; (2) a need to search and collect a large volume of records; or (3) a need to consult with another agency (or a separate subdivision of the same agency) having a substantial subject-matter interest in the request.

10. WAIVERS

No waivers will be accepted from the requirements of this procedure.

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11. RELATED PROCEDURES, STANDARDS AND GUIDANCE

Not applicable.

12. MATERIAL SUPERSEDED

Interim Procedures for Responding to Freedom of Information Act (FOIA) Requests (CIO 2157-P-01-0/Transmittal 13-010 dated September 30, 2013)

13. ADDITIONAL INFORMATION

This document is not intended to create any rights or privileges for the public, or obligations on the part of EPA.



Renee P. Wynn
Acting Assistant Administrator for Environmental Information
and Chief Information Officer
U.S. Environmental Protection Agency



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OFFICE OF
GENERAL COUNSEL

FEB 15 2019

MEMORANDUM

SUBJECT: Freedom of Information Act (FOIA) Policy and Procedures Update

FROM: Matthew Z. Leopold
General Counsel

TO: Assistant Administrators
Associate Administrators
Deputy Assistant Administrators
Deputy Associate Administrators
Regional Administrators
Deputy Regional Administrators
Regional Counsels
Deputy Regional Counsels
FOIA Officers
FOIA Coordinators
OGC NFO

In 2018, the Environmental Protection Agency (EPA or Agency) reorganized the Agency's offices that implement the FOIA by re delegating the Chief FOIA Officer functions to the General Counsel and by moving the National FOIA Program staff from the former Office of Environmental Information (OEI) to a new National FOIA Office (NFO) in the Office of General Counsel (OGC).¹ This Memorandum reaffirms, on an interim basis, the attached EPA FOIA Policy and Procedures, which the Chief FOIA Officer issued when that function was in OEI.²

Each Organization shall ensure their implementation of the FOIA and their FOIA procedures comply with the attached Agency FOIA Policy and Procedures and this Memorandum. Going forward, the following terms used in the Agency FOIA Policy and Procedures have the following meanings.

¹ OEI merged with the Office of Administration and Resources Management to form the Office of Mission Support.

² U.S. Env'tl. Prot. Agency, Freedom of Information Act Policy, CIO 2157.1 (Sept. 30, 2014); U.S. Env'tl. Prot. Agency, Freedom of Information Act Procedure, CIO 2157-P-01.1 (Sept. 30, 2014).

- The Chief FOIA Officer is the General Counsel.
- The National FOIA Program means the National FOIA Office in the Office of General Counsel.
- The Office of General Counsel replaces the Office of Environmental Information.
- The FOIA Public Liaison is the Director of the National FOIA Office, and the FOIA Requester Service Center is located in the National FOIA Office.

EPA will interpret the FOIA Policy and Procedures consistent with FOIA. OGC has issued guidance on the FOIA Improvement Act of 2016, a copy of which is attached. Additionally, NFO is developing changes to the Agency's FOIA regulations. After EPA's updated FOIA regulations take effect, I direct NFO to fully review and revise the attached FOIA Policy and Procedures. In February 2018, EPA released its Reform Plan in response to Executive Order 13781, *Comprehensive Plan for Reorganizing the Executive Branch*. EPA's Reform Plan includes greater consistency in EPA's regional organizational structure to increase visibility into regional FOIA operations. NFO's full revisions of the FOIA Policy and Procedures will reflect the reorganization of regional FOIA offices into the Offices of Regional Counsel.

This Memorandum is effective immediately.

Attachment




UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

November 16, 2018

OFFICE OF THE
ADMINISTRATOR

MEMORANDUM

SUBJECT: Awareness Notification Process for Select Freedom of Information Act Releases

FROM: Ryan Jackson
Chief of Staff 

TO: General Counsel
Assistant Administrators
Inspector General
Chief Financial Officer
Associate Administrators
Regional Administrators
Regional Counsels
Deputy Regional Counsels
FOIA Coordinators

Earlier this week, in a November 13, 2018, memorandum to all staff, Acting Administrator Wheeler reaffirmed the agency's commitment to transparency, noting that the Freedom of Information Act is both a statutory obligation and an important tool for promoting transparency and building public trust in agency actions.

For years, spanning several Administrations, senior leaders at the U.S. Environmental Protection Agency have been notified of the imminent release of information through FOIA. This "awareness notification process" is intended to inform senior officials of the release of information through FOIA that may be of particular interest to the press, the public and/or Congress. Indeed, having such awareness has allowed agency senior leadership to respond efficiently to inquiries about such releases. In an effort to ensure consistency and provide clarity, this memorandum sets forth the awareness notification process to be followed at the agency.

This awareness notification process is not an approval process, nor does this process alter or eliminate any part of the agency's existing procedures for collecting, reviewing or redacting documents, or preparing responses to FOIA requests. Consistent with the agency's FOIA policy and procedures, FOIA staff, program staff and program managers will continue to determine whether information should be released or withheld under FOIA's exemptions. The awareness notification process described below is effective immediately and controls and supersedes any prior process, procedure, guidance or instruction, either formal or informal, to the extent such is

inconsistent with the awareness notification process described below. The aspects of the awareness notification process described in paragraphs 1 through 3 below will run concurrently with the Action Office's¹ preparation of the FOIA response.

PROCESS

1. The National FOIA Office will provide a list of select FOIA requests received that week to the Director of the Office of Executive Secretariat, the Associate Administrator for the Office of Public Affairs and the Associate Administrator for the Office of Congressional and Intergovernmental Relations, with a courtesy copy to the deputy in each of those three offices.
2. As promptly as possible but within five business days of transmittal of the list, the OEX Director and the OPA and OCIR Associate Administrators, or their designees, will notify the National FOIA Office Director, or designee, identifying any specific FOIA requests for which they would like to receive an awareness notification.
3. For those FOIA requests identified for awareness notification, the National FOIA Office Director or Assistant Directors, or their designees, will promptly indicate in FOIAonline that the FOIA response will require an awareness notification. The National FOIA Office Director, or designee, will also notify the Deputy Assistant Administrator or Deputy Regional Administrator of the Action Office by email, specifying which FOIAs have been identified for awareness notification.
4. Following Action Office management approval of the FOIA determination, in accordance with applicable authorities,² and prior to issuing the determination, the Action Office shall prepare an "awareness notification email" containing the following information:
 - The name of the Action Office;
 - The FOIAonline tracking number;
 - The name of the requester/organization;
 - The date the FOIA request was perfected;
 - A brief description of the request, as clarified/modified;
 - Whether the response is interim or final;
 - The number of documents and/or pages to be released;
 - An attachment of, or link to, the documents to be released;
 - A list of offices with an equity in the documents and a statement that those offices have reviewed the relevant documents; and
 - The name of the manager responsible for making the FOIA determination.A copy of the email will be saved in FOIAonline.

¹ The Action Office, as defined in EPA's Procedures for Responding to Freedom of Information Act Requests CIO 2157-P-01.1, is the organizational unit that has responsibility for responding to a FOIA request.

² See 5 U.S.C. § 552(a)(6)(A)(i), 40 C.F.R. §§ 2.103(b), 2.104(h), and EPA Delegation of Authority 1-30 Freedom of Information (12/15/2016); *see also* EPA Freedom of Information Act Policy CIO 2157.1 (09/30/2014) and EPA Procedures for Responding to Freedom of Information Act Requests CIO 2157-P-01.1 (09/30/2014).

5. The Action Office will send the "awareness notification email" to the OEX Director and Deputy Director, the National FOIA Office Director and Assistant Directors, the OPA and OCIR Associate Administrator and Deputy Associate Administrator, the Deputy Assistant Administrator or Deputy Regional Administrator of the Action Office and the individual assigned to the request in FOIAonline.
6. The recipients of the "awareness notification email" will have up to three business days following transmission of that email to review the documents to be released. There is no requirement for the recipients of the awareness notification email to respond or otherwise take action. After 4 p.m. on the third business day after transmission of the awareness notification email, the Action Office shall issue the Agency's FOIA determination. The determination should be issued promptly, but in no event later than one business day following completion of the three-day awareness notification period. After issuance, the determination should be properly documented in FOIAonline.

The awareness process discussed above does not affect the statutory timelines or, when applicable, litigation deadlines facing the agency.

As Acting Administrator Wheeler shared in his November 13, 2018, memorandum, the EPA is committed to conducting its business in an open and transparent manner and will continue to take steps to improve the efficacy and efficiency of its FOIA process. I look forward to working with all of you to make the EPA a flagship example of transparent, efficient and effective government.

cc: Andrew R. Wheeler
Henry Darwin